

Commission on Strengthening Utah's Democracy

Where Does Utah Stand in Relation to Other States?

By

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Only 53.8 percent of Utah's eligible voting-age population voted last election, which places Utah behind 47 states and the District of Columbia, and well below the national average of 61.7 percent. In addition, Utah's voter participation rate has dropped 5.1 percentage points since 2004—more than any other state. ([United States Election Project at George Mason University](#)). Because laws, regulations, and other government programs impact citizens' ability and desire to participate in the political process, the Governor's Commission on Strengthening Utah's Democracy will thoroughly examine Utah's laws that relate to political activity. Many states, including Arkansas, Colorado, Florida, Hawaii, Idaho, Indiana, Kansas, Kentucky, Massachusetts, New Hampshire, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Virginia, Washington, and Wisconsin have already conducted a similar review.

This document summarizes Utah's ethics, campaign finance, redistricting, lobbying, and election laws. It also compares these laws to those in other states.

I. Ethics Laws

A. **Gift Rules**—Utah Executive Branch employees may not accept any gift that might be intended to influence or reward the employee in the performance of official business. ([Executive Order 2007-0001](#)). In addition, an executive or legislative official or employee may not solicit or accept for himself or for another any gift or loan if the public official has been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender. ([Utah Code § 67-16-5](#)). Lobbyists are specifically prohibited from giving “gifts” under similar circumstances. “Gift” does not include, among other things, occasional non-cash gifts valued at \$50 or less, political contributions, and admission price for events, meals, recreation, outings, or functions. (Utah Code §§ [36-11-304](#), [36-11-102\(19\)\(b\)](#)).

▪ *Other States* ([National Conference of State Legislatures](#))

- 12 states, unlike Utah, strictly ban all gifts from lobbyists;
- 34 states, including Utah, place a dollar limitation on gifts; and
- 23 states, including Utah, specially exempt food and beverage costs from gift limitations and prohibitions.

B. **Conflict-of-Interest Rules**

- Outside Employment Restrictions—Utah public officials and employees are not forbidden from holding employment outside of the government. Utah state legislators may “not engage in any employment or other activity that would destroy or impair their independence of judgment” or lobby other members of the legislature for compensation. (Utah Leg. Joint Rule 6-1-102). Legislators may serve “dual employment” duties as a legislator and a public employee so long as the legislator does not receive double compensation for hours worked.

([Utah Code § 67-19-19](#)). Executive branch employees may engage in outside employment so long it does not interfere with the employee’s duties. ([Utah Dept. of Human Resource Management Rule 477-9-2](#)).

- *Other States*—15 states, unlike Utah, place significant restrictions on holding two positions of public employment. ([National Conference of State Legislatures](#)).
- **Officeholder Personal Financial Disclosure**—Utah state legislators must annually file a Declaration of Conflict of Interest form, which requires the disclosure of (a) businesses worth \$10,000 or more in which a legislator holds a position such as director, officer, owner, member, partner or employer; and (b) legislative subject areas in which a legislative action could cause direct financial benefit to the legislator, his spouse, or his children living in the household. Legislators are not prohibited from voting on any legislation that presents a conflict of interest. ([Utah Code § 76-8-109](#)). These conflict forms do not specifically require a legislator to list income-amount categories, creditors, or debtors. ([National Conference of State Legislators](#)). Utah state executive branch officials are not required to file any personal financial disclosure forms or conflict-of-interest forms. ([The Center for Public Integrity, 2007](#)).
- *Other States*
 - 16 states, unlike Utah, require legislators to both disclose income amounts and categorize those income amounts ([National Conference of State Legislators](#));
 - 30 states, unlike Utah, specifically require legislators to list creditors and/or debtors ([National Conference of State Legislators](#)); and
 - 46 states, unlike Utah, require executive branch officials to file personal financial disclosure forms or conflict-of-interest forms ([The Center for Public Integrity, 2007](#)).

C. **Independent Ethics Commission**—Utah has no independent ethics commission to oversee enforcement of ethics rules and to receive ethics complaints.

- **Other States** ([National Conference of State Legislatures](#))
 - 40 states, unlike Utah, have independent ethics commissions;
 - 36 states’ commissions oversee legislative branch activities;
 - 40 states’ commissions oversee executive branch activities;
 - 8 states’ commissions oversee state vendor activities; and
 - 26 states’ commissions examine reports, 36 states’ commissions have subpoena power, and 11 states’ commission orders are enforceable in court.

II. **Campaign Finance Laws**

A. **Disclosure**—Utah was ranked 40th and received a “D-” grade for campaign finance disclosure in a 2008 study. ([Grading State Disclosure Project, 2008](#)).

- **Campaign Finance Report Frequency**—Utah requires state candidates to disclose contributions and expenditures once during non-election years and five times (pre-convention, pre-primary, August 31st, pre-general election, and year-end reports) during election years. Last-minute contributions and independent expenditures are reported after Election Day. ([Utah Code §§ 20A-11-203, 20A-11-203, 20A-11-303, 20A-11-304](#)).
- *Other States* ([Grading State Disclosure Project, 2008](#))

- 36 states, unlike Utah, require timely reporting of last-minute contributions; and
 - 27 states, unlike Utah, require timely reporting of last-minute independent expenditures.
- Campaign Finance Report Detail—Utah state candidates must itemize contributions and expenditures of \$50 or more. Contributors’ occupations and employers need not be listed. (State PACs *are* required to disclose this information, however.) Sub-vendor information (e.g., name of vendor to whom a credit card company disburses funds) for expenditures is not required. ([Utah Code §§ 20A-11-203, 20A-11-203, 20A-11-303, 20A-11-304](#)).
 - *Other States* ([Grading State Disclosure Project, 2008](#))
 - 36 states, unlike Utah, require candidates to disclose contributors’ occupations and/or employers; and
 - 24 states, unlike Utah, require expenditures made by sub-vendors to be reported.
- Electronic Reporting and Data Access—Utah does not require candidates and political committees to file registration and reporting statements electronically. However, the voluntary participation rate is high: all statewide candidates and 60 percent of legislative candidates took advantage of the electronic filing option in the last statewide election. The state is in the process of redesigning its campaign finance disclosure website. ([Utah Code § 20A-11-101, et. seq.](#)).
 - *Other States* ([Grading State Disclosure Project, 2008](#))
 - 13 states, including Utah, have a voluntary electronic disclosure program; and
 - 30 states, unlike Utah, have a mandatory electronic disclosure program.
- Enforcement Audit and Review—Utah requires the Lieutenant Governor to verify that each state candidate files reports and that each report contains the required information. No mandatory or random paper or field audit is required. ([Utah Code § 20A-11-206](#)).
 - *Other States* ([Grading State Disclosure Project, 2008](#))—33 states, unlike Utah, require paper and/or field audits of campaign finance disclosure reports.

B. Contribution Limits and Source/Timing Prohibitions

- Contribution Limits—Utah does not limit contributions to state candidates, parties, and PACs. Cash contributions are not limited or prohibited.
 - *Other States* ([National Conference of State Legislatures](#))
 - 36 states, unlike Utah, limit contributions to state candidates;
 - 37 states, unlike Utah, limit contributions to state political parties; and
 - 30 states, unlike Utah, limit cash contributions.
- Source and Timing Prohibitions—Utah does not prohibit corporate or lobbyist contributions. Union treasury-fund contributions are prohibited, as are contributions to state officeholders while the Utah Legislature is in session. (Utah Code §§ [20A-11-1403, 36-11-305](#)).
 - *Other States* ([National Conference of State Legislatures](#))
 - 24 states, unlike Utah, ban corporate contributions to candidates (22 other states limit corporate contributions);
 - 5 states, unlike Utah, ban or severely restrict lobbyist contributions;
 - 16 states, including Utah, ban union treasury-fund contributions; and
 - 17 states, including Utah, ban contributions during the legislative session.

- C. “Pay-to-Play” Rules for Government Contractors and Bidders**
- **Political Contribution Bans**—Utah does not prohibit political contributions from government contractors and bidders.
 - *Other States* ([Public Citizen](#))
 - 3 states, unlike Utah, ban political contributions only from holders of no-bid contracts; and
 - 6 states, unlike Utah, ban political contributions from holders of both no-bid and competitive contracts.
 - **Gift Ban**—Utah state vendors interested in the sale of any supplies, services, construction, real property, or insurance to the state of Utah or to any political subdivision may not give or offer to give any emolument, gratuity, loan, or reward to a procurement officer, or person who in any official capacity participates in the procurement of supplies, services, construction, real property, or insurance. ([Utah Code §63G-6-1002](#)).
 - **Registration Requirements**—Utah does not require government contractors and bidders to register with the state and publicly disclose information.
 - *Other States* ([Public Citizen](#))—9 states, unlike Utah, require regularly updated registration data from government contractors, bidders, and/or affiliates.
- D. Public Funding of Campaigns**—Utah does not publicly fund candidates’ campaigns, but does subsidize political parties with a \$2 tax check-off. ([Utah Code § 59-10-1312](#)).
- **Other States** ([National Conference of State Legislatures](#))
 - 11 states, including Utah, partially subsidize political parties through income tax check-offs (does not increase tax liability) or add-ons (increases tax liability);
 - 10 states, unlike Utah, fully or partially fund candidate campaigns; and
 - 10 states, unlike Utah, offer citizens tax refunds, credits, and deductions.

III. Redistricting Laws and Procedures

- A. Redistricting Commission**—Utah’s legislature is responsible for redistricting. A joint, ad hoc committee is usually formed and the Governor has veto power over redistricting plans. ([Utah Const. Art. IX § 1](#)).
- **Other States** ([National Conference of State Legislatures](#))
 - 12 states, unlike Utah, authorize independent commissions to draw a redistricting plan, of which, 6 states authorize their commissions to draw congressional districts;
 - 2 states, unlike Utah, have independent commissions that advise the legislature on redistricting plans;
 - 5 states, unlike Utah, have independent “backup” commissions that draw a redistricting plan if the legislature fails to do so; and
 - 1 state, unlike Utah, allows only professional legislative staff to prepare a redistricting plan that is later voted on by the state legislature.
- B. Redistricting Criteria**—In 2001, Utah’s Legislature considered compactness and contiguity in drawing a redistricting plan. ([Utah Legislature, Redistricting Principles, 2001](#)).
- **Other States** ([National Conference of State Legislatures](#))
 - 37 states, including Utah, considered compactness while drawing a redistricting plan;
 - 48 states, including Utah, considered contiguity while drawing a redistricting plan;

- 44 states, unlike Utah, considered political-subdivision boundaries while drawing a redistricting plan;
- 21 states, unlike Utah, considered preservation of communities of interest while drawing a redistricting plan;
- 11 states, unlike Utah, cannot consider incumbency while drawing a redistricting plan; and
- 11 states, unlike Utah, consider prior district boundaries while drawing a redistricting plan.

IV. **Lobbying Regulations**

A. **Registration and Disclosure**

- **Registration**—Utah requires legislative- and executive-branch lobbyists to register with the Lieutenant Governor’s office. Lobbyists are required to disclose the name and address of each principal for whom they work, but lobbyist principals themselves are not required to register with the state. Registration for so-called “grassroots lobbying” is not required. ([Utah Code § 36-11-103](#)).
 - *Other States* ([National Conference of State Legislatures](#))
 - 16 states, unlike Utah, require lobbyist principals to register;
 - 27 states, unlike Utah, require registration for so-called “grassroots lobbying”; and
 - 13 states, unlike Utah, require lobbyists to wear name badges on government property.
- **Disclosure**—A Utah-registered lobbyist must file quarterly reports that disclose and itemize the lobbyist’s expenditures made to benefit any public official, including travel expenses and food costs over \$50 per day. A lobbyist must also disclose the legislative or executive action for which he made expenditures. Lobbyists are not required to report political contributions or compensation from lobbying activity. ([Utah Code § 36-11-201](#)).
 - *Other States* ([State and Federal Communications](#))
 - 14 states, including Utah, require lobbyist disclosure reports to be filed quarterly;
 - 23 states require lobbying disclosure on a less frequent basis than Utah (i.e. less often than quarterly);
 - 13 states require lobbying disclosure on a more frequent basis than Utah (i.e. more often than quarterly); and
 - 33 states, unlike Utah, require lobbyists to report the amount of lobbying-related compensation they receive.

B. **“Revolving Door” Restrictions**—Utah has no so-called “revolving door” restrictions on legislative branch officials. For two years after the termination of their employment, former executive branch employees may not “lobby” current executive branch employees. ([Executive Order 2007-0001](#)).

- **Other States** ([National Conference of State Legislatures](#) and [The Center for Public Integrity, 2006](#))
 - 33 states, including Utah, have implemented cool-off periods for post-public service lobbying employment; and

- 9 of the 33 states, including Utah, require a 2-year cool-off period for some post-public service lobbying employment.

V. Elections

A. **Nomination Systems**

- Nominee Selection System—Utah’s major political parties select nominees for state office through a “pre-primary convention” system, under which party leaders at a state convention may either select a nominee or choose two candidates that compete for the party nomination in a subsequent primary. ([Utah Republican Party Bylaws](#), [Utah Democratic Party Bylaws](#)).
 - *Other States* ([The Council of State Governments](#))
 - In 7 states, including Utah, conventions play a significant role in nominee selection;
 - 5 states, unlike Utah, hold primary elections to select statewide nominees, but allow parties to hold conventions for legislative offices; and
 - 38 states, unlike Utah, select nominees through a primary election.
- Open/Closed Primary—Utah’s Republican Party has a closed primary election, while the Utah Democratic Party’s primary is a semi-closed primary, which allows party members and independents to participate. ([Utah Republican Party Bylaws](#), [Utah Democratic Party Bylaws](#)).
 - *Other States* ([National Association of Secretaries of State, Voting and Democracy Research Center](#))
 - 26 states, including Utah, hold closed or semi-closed primary elections or caucuses;
 - 17 states, unlike Utah, hold open or semi-open primaries or caucuses; and
 - 7 states use miscellaneous types of primaries or caucuses.

B. **Voter Registration**

- Registration Deadline—Utah requires citizens to register 30 days before an election if registering by mail and 15 days before an election if registering in person. ([Utah Elec. Code § 20A-2-102.5](#))
 - *Other States* ([Pew Center on the States](#))
 - 7 states, unlike Utah, allow election-day registration;
 - 10 states, including Utah, close registration 1-15 days before Election Day (5 of these 10 states close registration closer to Election Day than Utah); and
 - 33 states close registration 16 days or more before Election Day.
- Other Voter Registration Issues
 - Automatic registration of voters ([New America Foundation, Automatic Voter Registration, 2006](#));
 - Online voter registration ([Salt Lake County, Utah](#)); and
 - Maintenance and integration of voter registration data.

C. **Voting Systems and Accessibility**

- Early and Absentee Voting—Utah has no-excuse absentee voting and no-excuse early voting in person and by mail, arguably the most voter-accessible early voting model in the country.

The early voting period starts 14 days before Election Day. (Utah Code §§ [20A-3-301](#), [20A-3-601](#)).

- *Other States* ([Early Voting Information Center](#))
 - 26 states are similar to Utah and have no-excuse early voting in-person and by mail; many of these 26 states have longer open voting periods than Utah, such as Wyoming (40 days) and Ohio (35 days);
 - 16 states, unlike Utah, have no early voting;
 - 7 states, unlike Utah, have only in-person no-excuse early voting; and
 - 1 state, unlike Utah, conducts *all* voting by mail.
- Military Voting—Utah was found by a 2009 study to “not provide enough time to vote for military personnel stationed overseas.” Utah’s military voters abroad would need at least 18 additional days to have enough time to vote. Overseas military voters from Utah can fax their ballot requests, but the state requires ballots to be transmitted to and from voters by postal mail. ([Pew Center on the States, No Time to Vote, 2009](#)).
 - *Other States* ([Pew Center on the States, No Time to Vote, 2009](#)).
 - 15 other jurisdictions were found, along with Utah, to not provide military personnel enough time to vote;
 - 38 of 51 jurisdictions, unlike Utah, allow overseas military voters to electronically submit registration requests;
 - 32 of 51 jurisdictions, unlike Utah, electronically transmit blank ballots to overseas military voters; and
 - 19 of 51 jurisdictions, unlike Utah, allow overseas military voters to electronically submit completed ballots.
- Other Convenience Voting Measures
 - Drive-thru voting ([California, Oregon](#));
 - Online voting ([Estonia](#));
 - Proxy voting ([United Kingdom](#));
 - All-postal voting ([Oregon](#)); and
 - Multi-precinct voting centers near transportation and employment hubs ([Colorado](#)).

D. Electoral College

- Assigning Electoral Votes in Presidential Elections—Utah law binds electors to vote for the winner of the state-wide popular vote. ([Utah Code § 20A-13-1301](#)).
 - *Other States* ([Voting and Democracy Research Center](#))
 - 21 states differ from Utah by not binding electors to vote for the winner of the popular vote; and
 - 2 states, Nebraska and Maine, require some electors to vote for the winner of a congressional district’s popular vote.