

1 **CAMPAIGN FUNDS USES AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephanie Pitcher**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends code provisions relating to the use of campaign funds.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ permits a candidate for public office to use campaign funds to pay childcare
13 expenses while the candidate is engaged in campaign activity.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **10-3-209**, as enacted by Laws of Utah 2015, Chapter 247

21 **17-16-202**, as enacted by Laws of Utah 2016, Chapter 50

22 **20A-11-104**, as last amended by Laws of Utah 2013, Chapter 320

24 *Be it enacted by the Legislature of the state of Utah:*

25 Section 1. Section **10-3-209** is amended to read:

26 **10-3-209. Personal use expenditure -- Authorized and prohibited uses of**
27 **campaign funds -- Enforcement -- Penalties.**



28 (1) Unless a municipality adopts by ordinance more stringent definitions, the following
29 are defined terms for the purposes of this section:

30 (a) "Candidate" means a person who:

31 (i) files a declaration of candidacy for municipal office; or

32 (ii) receives contributions, makes expenditures, or gives consent for any other person to
33 receive contributions or make expenditures to bring about the person's nomination or election
34 to a public office.

35 (b) "Officeholder" means a person who is elected to and currently holds a municipal
36 office.

37 (c) (i) "Personal use expenditure" means an expenditure that:

38 (A) is not excluded from the definition of personal use expenditure by Subsection (2)
39 and primarily furthers a personal interest of a candidate or officeholder or a candidate's or
40 officeholder's family, which interest is not connected with the performance of an activity as a
41 candidate or an activity or duty of an officeholder; or

42 (B) would cause the candidate or officeholder to recognize the expenditure as taxable
43 income under federal law.

44 (ii) "Personal use expenditure" includes:

45 (A) a mortgage, rent, utility, or vehicle payment;

46 (B) a household food item or supply;

47 (C) clothing, except for clothing bearing the candidate's name or campaign slogan or
48 logo and that is used in the candidate's campaign;

49 (D) an admission to a sporting, artistic, or recreational event or other form of
50 entertainment;

51 (E) dues, fees, or gratuities at a country club, health club, or recreational facility;

52 (F) a salary payment made to a candidate, officeholder, or a person who has not
53 provided a bona fide service to a candidate or officeholder;

54 (G) a vacation;

55 (H) a vehicle expense;

56 (I) a meal expense;

57 (J) a travel expense;

58 (K) a payment of an administrative, civil, or criminal penalty;

- 59 (L) a satisfaction of a personal debt;
- 60 (M) a personal service, including the service of an attorney, accountant, physician, or
61 other professional person;
- 62 (N) a membership fee for a professional or service organization; and
- 63 (O) a payment in excess of the fair market value of the item or service purchased.
- 64 (2) As used in this section, "personal use expenditure" does not mean an expenditure
65 made:
- 66 (a) for a political purpose;
- 67 (b) for candidacy for public office;
- 68 (c) to fulfill a duty or activity of an officeholder;
- 69 (d) for a donation to a registered political party;
- 70 (e) for a contribution to another candidate's campaign account, including sponsorship
71 of or attendance at an event, the primary purpose of which is to solicit a contribution for
72 another candidate's campaign account;
- 73 (f) to return all or a portion of a contribution to a donor;
- 74 (g) for the following items, if made in connection with the candidacy for public office
75 or an activity or duty of an officeholder:
- 76 (i) (A) a mileage allowance at the rate established by the Division of Finance under
77 Section [63A-3-107](#); or
- 78 (B) for motor fuel or special fuel, as defined in Section [59-13-102](#);
- 79 (ii) a meal expense;
- 80 (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
- 81 (iv) a payment for a service provided by an attorney or accountant;
- 82 (v) a tuition payment or registration fee for participation in a meeting or conference;
- 83 (vi) a gift;
- 84 (vii) a payment for the following items in connection with an office space:
- 85 (A) rent;
- 86 (B) utilities;
- 87 (C) a supply; or
- 88 (D) furnishing;
- 89 (viii) a booth at a meeting or event; or

- 90 (ix) educational material;
- 91 (h) to purchase or mail informational material, a survey, or a greeting card;
- 92 (i) for a donation to a charitable organization, as defined by Section 13-22-2, including
- 93 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,
- 94 as defined in Section 13-22-2;
- 95 (j) to repay a loan a candidate makes from the candidate's personal account to the
- 96 candidate's campaign account;
- 97 (k) to pay membership dues to a national organization whose primary purpose is to
- 98 address general public policy;
- 99 (l) for admission to or sponsorship of an event, the primary purpose of which is to
- 100 promote the social, educational, or economic well-being of the state or the candidate's or
- 101 officeholder's community; [~~or~~]
- 102 (m) for one or more guests of an officeholder or candidate to attend an event, meeting,
- 103 or conference described in this Subsection (2)[-]; or
- 104 (n) to pay childcare expenses of a candidate while the candidate is engaged in
- 105 campaign activity.
- 106 (3) (a) A municipality may adopt an ordinance prohibiting a personal use expenditure
- 107 by a candidate with requirements that are more stringent than the requirements provided in
- 108 Subsection (4).
- 109 (b) The municipality may adopt definitions that are more stringent than those provided
- 110 in Subsection (1) or (2).
- 111 (c) If a municipality fails to adopt a personal use expenditure ordinance described in
- 112 Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).
- 113 (4) A candidate or an officeholder may not use money deposited into a campaign
- 114 account for:
- 115 (a) a personal use expenditure; or
- 116 (b) an expenditure prohibited by law.
- 117 (5) A municipality may enforce this section by adopting an ordinance:
- 118 (a) to provide for the evaluation of a campaign finance statement to identify a personal
- 119 use expenditure; and
- 120 (b) to commence informal adjudicative proceedings if, after an evaluation described in

121 Subsection (5)(a), there is probable cause to believe that a candidate or officeholder has made a
122 personal use expenditure.

123 (6) If, in accordance with the proceedings described in Subsection (5)(b) established in
124 municipal ordinance, a municipality determines that a candidate or officeholder has made a
125 personal use expenditure, the municipality:

126 (a) may require the candidate or officeholder to:

127 (i) remit an administrative penalty of an amount equal to 50% of the personal use
128 expenditure to the municipality; and

129 (ii) deposit the amount of the personal use expenditure into the campaign account from
130 which the personal use expenditure was disbursed; and

131 (b) shall deposit the money received under Subsection (6)(a)(i) into the municipal
132 general fund.

133 Section 2. Section **17-16-202** is amended to read:

134 **17-16-202. Definitions.**

135 As used in this part:

136 (1) (a) Except as provided in Subsection (1)(b), "contribution" means any of the
137 following when done for a political purpose:

138 (i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value
139 given to the filing entity;

140 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,
141 subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything
142 of value to the filing entity;

143 (iii) any transfer of funds from another reporting entity to the filing entity;

144 (iv) compensation paid by any person or reporting entity other than the filing entity for
145 personal services provided without charge to the filing entity;

146 (v) a loan made by a county office candidate or local school board candidate deposited
147 into the county office candidate's or local school board candidate's own campaign account; or

148 (vi) an in-kind contribution.

149 (b) "Contribution" does not include:

150 (i) services provided by an individual volunteering a portion or all of the individual's
151 time on behalf of the filing entity if the services are provided without compensation by the

152 filing entity or any other person;

153 (ii) money lent to the filing entity by a financial institution in the ordinary course of
154 business; or

155 (iii) goods or services provided for the benefit of a county office candidate or local
156 school board candidate at less than fair market value that are not authorized by or coordinated
157 with the county office candidate or the local school board candidate.

158 (2) "County office" means an office described in Section 17-53-101 that is required to
159 be filled by an election.

160 (3) "County office candidate" means an individual who:

161 (a) files a declaration of candidacy for a county office; or

162 (b) receives a contribution, makes an expenditure, or gives consent for any other person
163 to receive a contribution or make an expenditure to bring about the individual's nomination or
164 election to a county office.

165 (4) "County officer" means an individual who holds a county office.

166 (5) (a) Except as provided in Subsection (5)(b), "expenditure" means any of the
167 following made by a reporting entity or an agent of a reporting entity on behalf of the reporting
168 entity:

169 (i) any disbursement from contributions, receipts, or the separate bank account required
170 under Section 17-16-6.5;

171 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
172 or anything of value made for a political purpose;

173 (iii) an express, legally enforceable contract, promise, or agreement to make any
174 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
175 value for a political purpose;

176 (iv) compensation paid by a filing entity for personal services rendered by a person
177 without charge to a reporting entity;

178 (v) a transfer of funds between the filing entity and a county office candidate's, or a
179 local school board candidate's, personal campaign committee; or

180 (vi) goods or services provided by the filing entity to or for the benefit of another
181 reporting entity for a political purpose at less than fair market value.

182 (b) "Expenditure" does not include:

183 (i) services provided without compensation by an individual volunteering a portion or
184 all of the individual's time on behalf of a reporting entity;

185 (ii) money lent to a reporting entity by a financial institution in the ordinary course of
186 business; or

187 (iii) anything described in Subsection (5)(a) that is given by a reporting entity to a
188 candidate or officer in another state.

189 (6) "Filing entity" means:

190 (a) a county office candidate;

191 (b) a county officer;

192 (c) a local school board candidate;

193 (d) a local school board member; or

194 (e) a reporting entity that is required to meet a campaign finance disclosure

195 requirement adopted by a county in accordance with Section [17-16-6.5](#).

196 (7) "In-kind contribution" means anything of value, other than money, that is accepted
197 by or coordinated with a filing entity.

198 (8) "Local school board candidate" means an individual who:

199 (a) files a declaration of candidacy for local school board; or

200 (b) receives a contribution, makes an expenditure, or gives consent for any other person
201 to receive a contribution or make an expenditure to bring about the individual's nomination or
202 election to a local school board.

203 (9) (a) "Personal use expenditure" means an expenditure that:

204 (i) (A) is not excluded from the definition of personal use expenditure by Subsection
205 (9)(c); and

206 (B) primarily furthers a personal interest of a county office candidate, county officer,
207 local school board candidate, or a local school board member, or a member of a county office
208 candidate's, county officer's, local school board candidate's, or local school board member's
209 family; or

210 (ii) would cause the county office candidate, county officer, local school board
211 candidate, or local school board member to recognize the expenditure as taxable income under
212 federal law.

213 (b) "Personal use expenditure" includes:

- 214 (i) a mortgage, rent, utility, or vehicle payment;
- 215 (ii) a household food item or supply;
- 216 (iii) clothing, except for clothing:
- 217 (A) bearing the county office candidate's or local school board candidate's name or
- 218 campaign slogan or logo; and
- 219 (B) used in the county office candidate's or local school board member's campaign;
- 220 (iv) admission to a sporting, artistic, or recreational event or other form of
- 221 entertainment;
- 222 (v) dues, fees, or gratuities at a country club, health club, or recreational facility;
- 223 (vi) a salary payment made to:
- 224 (A) a county office candidate, county officer, local school board candidate, or local
- 225 school board member; or
- 226 (B) a person who has not provided a bona fide service to a county candidate, county
- 227 officer, local school board candidate, or local school board member;
- 228 (vii) a vacation;
- 229 (viii) a vehicle expense;
- 230 (ix) a meal expense;
- 231 (x) a travel expense;
- 232 (xi) payment of an administrative, civil, or criminal penalty;
- 233 (xii) satisfaction of a personal debt;
- 234 (xiii) a personal service, including the service of an attorney, accountant, physician, or
- 235 other professional person;
- 236 (xiv) a membership fee for a professional or service organization; and
- 237 (xv) a payment in excess of the fair market value of the item or service purchased.
- 238 (c) "Personal use expenditure" does not include an expenditure made:
- 239 (i) for a political purpose;
- 240 (ii) for candidacy for county office or local school board;
- 241 (iii) to fulfill a duty or activity of a county officer or local school board member;
- 242 (iv) for a donation to a registered political party;
- 243 (v) for a contribution to another candidate's campaign account, including sponsorship
- 244 of or attendance at an event, the primary purpose of which is to solicit a contribution for

245 another candidate's campaign account;

246 (vi) to return all or a portion of a contribution to a contributor;

247 (vii) for the following items, if made in connection with the candidacy for county

248 office or local school board, or an activity or duty of a county officer or local school board

249 member:

250 (A) a mileage allowance at the rate established by the political subdivision that

251 provides the mileage allowance;

252 (B) for motor fuel or special fuel, as defined in Section 59-13-102;

253 (C) a meal expense;

254 (D) a travel expense, including an expense incurred for airfare or a rental vehicle;

255 (E) a payment for a service provided by an attorney or accountant;

256 (F) a tuition payment or registration fee for participation in a meeting or conference;

257 (G) a gift;

258 (H) a payment for rent, utilities, a supply, or furnishings, in connection with an office

259 space;

260 (I) a booth at a meeting or event; or

261 (J) educational material;

262 (viii) to purchase or mail informational material, a survey, or a greeting card;

263 (ix) for a donation to a charitable organization, as defined in Section 13-22-2, including

264 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,

265 as defined in Section 13-22-2;

266 (x) to repay a loan a county office candidate or local school board candidate makes

267 from the candidate's personal account to the candidate's campaign account;

268 (xi) to pay membership dues to a national organization whose primary purpose is to

269 address general public policy;

270 (xii) for admission to or sponsorship of an event, the primary purpose of which is to

271 promote the social, educational, or economic well-being of the state or the county candidate's,

272 county officer's, local school board candidate's, or local school board member's community;

273 (xiii) for one or more guests of a county office candidate, county officer, local school

274 board candidate, or local school board member to attend an event, meeting, or conference

275 described in this Subsection (9)(c); [or]

276 (xiv) that is connected with the performance of an activity as a county office candidate
277 or local school board member, or an activity or duty of a county officer or local school board
278 member[-]; or

279 (xv) to pay childcare expenses of a candidate while the candidate is engaged in
280 campaign activity.

281 (10) "Political purpose" means an act done with the intent or in a way to influence or
282 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
283 against any candidate or a person seeking an office at any caucus, political convention, or
284 election.

285 (11) "Reporting entity":

286 (a) means the same as that term is defined in Subsection 20A-11-101(52); and

287 (b) includes a county office candidate, a county office candidate's personal campaign
288 committee, a county officer, a local school board candidate, a local school board candidate's
289 personal campaign committee, and a local school board member.

290 Section 3. Section 20A-11-104 is amended to read:

291 **20A-11-104. Personal use expenditure -- Authorized and prohibited uses of**
292 **campaign funds -- Enforcement -- Penalties.**

293 (1) (a) As used in this chapter, "personal use expenditure" means an expenditure that:

294 (i) (A) is not excluded from the definition of personal use expenditure by Subsection
295 (2); and

296 (B) primarily furthers a personal interest of a candidate or officeholder or a candidate's
297 or officeholder's family, which interest is not connected with the performance of an activity as
298 a candidate or an activity or duty of an officeholder; or

299 (ii) would cause the candidate or officeholder to recognize the expenditure as taxable
300 income under federal law.

301 (b) "Personal use expenditure" includes:

302 (i) a mortgage, rent, utility, or vehicle payment;

303 (ii) a household food item or supply;

304 (iii) clothing, except for clothing:

305 (A) bearing the candidate's name or campaign slogan or logo; and

306 (B) used in the candidate's campaign;

- 307 (iv) an admission to a sporting, artistic, or recreational event or other form of
308 entertainment;
- 309 (v) dues, fees, or gratuities at a country club, health club, or recreational facility;
- 310 (vi) a salary payment made to:
- 311 (A) a candidate or officeholder; or
- 312 (B) a person who has not provided a bona fide service to a candidate or officeholder;
- 313 (vii) a vacation;
- 314 (viii) a vehicle expense;
- 315 (ix) a meal expense;
- 316 (x) a travel expense;
- 317 (xi) a payment of an administrative, civil, or criminal penalty;
- 318 (xii) a satisfaction of a personal debt;
- 319 (xiii) a personal service, including the service of an attorney, accountant, physician, or
320 other professional person;
- 321 (xiv) a membership fee for a professional or service organization; and
- 322 (xv) a payment in excess of the fair market value of the item or service purchased.
- 323 (2) As used in this chapter, "personal use expenditure" does not mean an expenditure
324 made:
- 325 (a) for a political purpose;
- 326 (b) for candidacy for public office;
- 327 (c) to fulfill a duty or activity of an officeholder;
- 328 (d) for a donation to a registered political party;
- 329 (e) for a contribution to another candidate's campaign account, including sponsorship
330 of or attendance at an event, the primary purpose of which is to solicit a contribution for
331 another candidate's campaign account;
- 332 (f) to return all or a portion of a contribution to a contributor;
- 333 (g) for the following items, if made in connection with the candidacy for public office
334 or an activity or duty of an officeholder:
- 335 (i) (A) a mileage allowance at the rate established by the Division of Finance under
336 Section [63A-3-107](#); or
- 337 (B) for motor fuel or special fuel, as defined in Section [59-13-102](#);

- 338 (ii) a meal expense;
- 339 (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
- 340 (iv) a payment for a service provided by an attorney or accountant;
- 341 (v) a tuition payment or registration fee for participation in a meeting or conference;
- 342 (vi) a gift;
- 343 (vii) a payment for the following items in connection with an office space:
- 344 (A) rent;
- 345 (B) utilities;
- 346 (C) a supply; or
- 347 (D) furnishing;
- 348 (viii) a booth at a meeting or event; or
- 349 (ix) educational material;
- 350 (h) to purchase or mail informational material, a survey, or a greeting card;
- 351 (i) for a donation to a charitable organization, as defined by Section 13-22-2, including
- 352 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,
- 353 as defined in Section 13-22-2;
- 354 (j) to repay a loan a candidate makes from the candidate's personal account to the
- 355 candidate's campaign account;
- 356 (k) to pay membership dues to a national organization whose primary purpose is to
- 357 address general public policy;
- 358 (l) for admission to or sponsorship of an event, the primary purpose of which is to
- 359 promote the social, educational, or economic well-being of the state or the candidate's or
- 360 officeholder's community; [~~or~~]
- 361 (m) for one or more guests of an officeholder or candidate to attend an event, meeting,
- 362 or conference described in this Subsection (2)[~~;~~]; or
- 363 (n) to pay childcare expenses of a candidate while the candidate is engaged in
- 364 campaign activity.
- 365 (3) (a) The lieutenant governor shall enforce this chapter prohibiting a personal use
- 366 expenditure by:
- 367 (i) evaluating a financial statement to identify a personal use expenditure; and
- 368 (ii) commencing an informal adjudicative proceeding in accordance with Title 63G,

369 Chapter 4, Administrative Procedures Act, if the lieutenant governor has probable cause to
370 believe a candidate or officeholder has made a personal use expenditure.

371 (b) Following the proceeding, the lieutenant governor may issue a signed order
372 requiring a candidate or officeholder who has made a personal use expenditure to:

373 (i) remit an administrative penalty of an amount equal to 50% of the personal use
374 expenditure to the lieutenant governor; and

375 (ii) deposit the amount of the personal use expenditure in the campaign account from
376 which the personal use expenditure was disbursed.

377 (c) The lieutenant governor shall deposit money received under Subsection (3)(b)(i) in
378 the General Fund.