

CAMPAIGN AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Deidre M. Henderson

Cosponsor:

Stephanie Pitcher

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ permits a candidate for public office to use campaign funds to pay childcare expenses while the candidate is engaging in campaign activity; and
- ▶ permits an officeholder to use campaign funds to pay childcare expenses while the officeholder is engaging in officeholder activities.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

30 **10-3-209. Personal use expenditure -- Authorized and prohibited uses of**
31 **campaign funds -- Enforcement -- Penalties.**

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

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

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

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

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

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

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

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

48 (ii) "Personal use expenditure" includes:

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

50 (B) a household food item or supply;

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

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

- 55 (E) dues, fees, or gratuities at a country club, health club, or recreational facility;
- 56 (F) a salary payment made to a candidate, officeholder, or a person who has not
- 57 provided a bona fide service to a candidate or officeholder;
- 58 (G) a vacation;
- 59 (H) a vehicle expense;
- 60 (I) a meal expense;
- 61 (J) a travel expense;
- 62 (K) a payment of an administrative, civil, or criminal penalty;
- 63 (L) a satisfaction of a personal debt;
- 64 (M) a personal service, including the service of an attorney, accountant, physician, or
- 65 other professional person;
- 66 (N) a membership fee for a professional or service organization; and
- 67 (O) a payment in excess of the fair market value of the item or service purchased.
- 68 (2) As used in this section, "personal use expenditure" does not mean an expenditure
- 69 made:
 - 70 (a) for a political purpose;
 - 71 (b) for candidacy for public office;
 - 72 (c) to fulfill a duty or activity of an officeholder;
 - 73 (d) for a donation to a registered political party;
 - 74 (e) for a contribution to another candidate's campaign account, including sponsorship
 - 75 of or attendance at an event, the primary purpose of which is to solicit a contribution for
 - 76 another candidate's campaign account;
 - 77 (f) to return all or a portion of a contribution to a donor;
 - 78 (g) for the following items, if made in connection with the candidacy for public office
 - 79 or an activity or duty of an officeholder:
 - 80 (i) (A) a mileage allowance at the rate established by the Division of Finance under
 - 81 Section [63A-3-107](#); or

- 82 (B) for motor fuel or special fuel, as defined in Section 59-13-102;
- 83 (ii) a meal expense;
- 84 (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
- 85 (iv) a payment for a service provided by an attorney or accountant;
- 86 (v) a tuition payment or registration fee for participation in a meeting or conference;
- 87 (vi) a gift;
- 88 (vii) a payment for the following items in connection with an office space:
- 89 (A) rent;
- 90 (B) utilities;
- 91 (C) a supply; or
- 92 (D) furnishing;
- 93 (viii) a booth at a meeting or event; or
- 94 (ix) educational material;
- 95 (h) to purchase or mail informational material, a survey, or a greeting card;
- 96 (i) for a donation to a charitable organization, as defined by Section 13-22-2, including
- 97 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,
- 98 as defined in Section 13-22-2;
- 99 (j) to repay a loan a candidate makes from the candidate's personal account to the
- 100 candidate's campaign account;
- 101 (k) to pay membership dues to a national organization whose primary purpose is to
- 102 address general public policy;
- 103 (l) for admission to or sponsorship of an event, the primary purpose of which is to
- 104 promote the social, educational, or economic well-being of the state or the candidate's or
- 105 officeholder's community; [~~or~~]
- 106 (m) for one or more guests of an officeholder or candidate to attend an event, meeting,
- 107 or conference described in this Subsection (2)~~[-];~~ or
- 108 (n) to pay childcare expenses of:

109 (A) a candidate while the candidate is engaging in campaign activity; or

110 (B) an officeholder while the officeholder is engaging in the duties of an officeholder.

111 (3) (a) A municipality may adopt an ordinance prohibiting a personal use expenditure
112 by a candidate with requirements that are more stringent than the requirements provided in
113 Subsection (4).

114 (b) The municipality may adopt definitions that are more stringent than those provided
115 in Subsection (1) or (2).

116 (c) If a municipality fails to adopt a personal use expenditure ordinance described in
117 Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).

118 (4) A candidate or an officeholder may not use money deposited into a campaign
119 account for:

120 (a) a personal use expenditure; or

121 (b) an expenditure prohibited by law.

122 (5) A municipality may enforce this section by adopting an ordinance:

123 (a) to provide for the evaluation of a campaign finance statement to identify a personal
124 use expenditure; and

125 (b) to commence informal adjudicative proceedings if, after an evaluation described in
126 Subsection (5)(a), there is probable cause to believe that a candidate or officeholder has made a
127 personal use expenditure.

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

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

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

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

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

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

139 **17-16-202. Definitions.**

140 As used in this part:

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

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

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

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

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

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

153 (vi) an in-kind contribution.

154 (b) "Contribution" does not include:

155 (i) services provided by an individual volunteering a portion or all of the individual's
156 time on behalf of the filing entity if the services are provided without compensation by the
157 filing entity or any other person;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

187 (b) "Expenditure" does not include:

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

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

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

194 (6) "Filing entity" means:

195 (a) a county office candidate;

196 (b) a county officer;

197 (c) a local school board candidate;

198 (d) a local school board member; or

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

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

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

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

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

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

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

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

211 (B) primarily furthers a personal interest of a county office candidate, county officer,
212 local school board candidate, or a local school board member, or a member of a county office
213 candidate's, county officer's, local school board candidate's, or local school board member's
214 family; or

215 (ii) would cause the county office candidate, county officer, local school board
216 candidate, or local school board member to recognize the expenditure as taxable income under

217 federal law.

218 (b) "Personal use expenditure" includes:

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

220 (ii) a household food item or supply;

221 (iii) clothing, except for clothing:

222 (A) bearing the county office candidate's or local school board candidate's name or

223 campaign slogan or logo; and

224 (B) used in the county office candidate's or local school board member's campaign;

225 (iv) admission to a sporting, artistic, or recreational event or other form of

226 entertainment;

227 (v) dues, fees, or gratuities at a country club, health club, or recreational facility;

228 (vi) a salary payment made to:

229 (A) a county office candidate, county officer, local school board candidate, or local

230 school board member; or

231 (B) a person who has not provided a bona fide service to a county candidate, county

232 officer, local school board candidate, or local school board member;

233 (vii) a vacation;

234 (viii) a vehicle expense;

235 (ix) a meal expense;

236 (x) a travel expense;

237 (xi) payment of an administrative, civil, or criminal penalty;

238 (xii) satisfaction of a personal debt;

239 (xiii) a personal service, including the service of an attorney, accountant, physician, or

240 other professional person;

241 (xiv) a membership fee for a professional or service organization; and

242 (xv) a payment in excess of the fair market value of the item or service purchased.

243 (c) "Personal use expenditure" does not include an expenditure made:

- 244 (i) for a political purpose;
- 245 (ii) for candidacy for county office or local school board;
- 246 (iii) to fulfill a duty or activity of a county officer or local school board member;
- 247 (iv) for a donation to a registered political party;
- 248 (v) for a contribution to another candidate's campaign account, including sponsorship
249 of or attendance at an event, the primary purpose of which is to solicit a contribution for
250 another candidate's campaign account;
- 251 (vi) to return all or a portion of a contribution to a contributor;
- 252 (vii) for the following items, if made in connection with the candidacy for county
253 office or local school board, or an activity or duty of a county officer or local school board
254 member:
 - 255 (A) a mileage allowance at the rate established by the political subdivision that
256 provides the mileage allowance;
 - 257 (B) for motor fuel or special fuel, as defined in Section 59-13-102;
 - 258 (C) a meal expense;
 - 259 (D) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - 260 (E) a payment for a service provided by an attorney or accountant;
 - 261 (F) a tuition payment or registration fee for participation in a meeting or conference;
 - 262 (G) a gift;
 - 263 (H) a payment for rent, utilities, a supply, or furnishings, in connection with an office
264 space;
 - 265 (I) a booth at a meeting or event; or
 - 266 (J) educational material;
- 267 (viii) to purchase or mail informational material, a survey, or a greeting card;
- 268 (ix) for a donation to a charitable organization, as defined in Section 13-22-2, including
269 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,
270 as defined in Section 13-22-2;

271 (x) to repay a loan a county office candidate or local school board candidate makes
272 from the candidate's personal account to the candidate's campaign account;

273 (xi) to pay membership dues to a national organization whose primary purpose is to
274 address general public policy;

275 (xii) for admission to or sponsorship of an event, the primary purpose of which is to
276 promote the social, educational, or economic well-being of the state or the county candidate's,
277 county officer's, local school board candidate's, or local school board member's community;

278 (xiii) for one or more guests of a county office candidate, county officer, local school
279 board candidate, or local school board member to attend an event, meeting, or conference
280 described in this Subsection (9)(c); [~~or~~]

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

284 (xv) to pay childcare expenses of:

285 (A) a candidate while the candidate is engaging in campaign activity; or

286 (B) an officeholder while the officeholder is engaging in the duties of an officeholder.

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

291 (11) "Reporting entity":

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

293 (b) includes a county office candidate, a county office candidate's personal campaign
294 committee, a county officer, a local school board candidate, a local school board candidate's
295 personal campaign committee, and a local school board member.

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

297 **20A-11-104. Personal use expenditure -- Authorized and prohibited uses of**

298 **campaign funds -- Enforcement -- Penalties.**

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

300 (i) (A) is not excluded from the definition of personal use expenditure by Subsection

301 (2); and

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

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

307 (b) "Personal use expenditure" includes:

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

309 (ii) a household food item or supply;

310 (iii) clothing, except for clothing:

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

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

313 (iv) an admission to a sporting, artistic, or recreational event or other form of
314 entertainment;

315 (v) dues, fees, or gratuities at a country club, health club, or recreational facility;

316 (vi) a salary payment made to:

317 (A) a candidate or officeholder; or

318 (B) a person who has not provided a bona fide service to a candidate or officeholder;

319 (vii) a vacation;

320 (viii) a vehicle expense;

321 (ix) a meal expense;

322 (x) a travel expense;

323 (xi) a payment of an administrative, civil, or criminal penalty;

324 (xii) a satisfaction of a personal debt;

325 (xiii) a personal service, including the service of an attorney, accountant, physician, or
326 other professional person;

327 (xiv) a membership fee for a professional or service organization; and

328 (xv) a payment in excess of the fair market value of the item or service purchased.

329 (2) As used in this chapter, "personal use expenditure" does not mean an expenditure
330 made:

331 (a) for a political purpose;

332 (b) for candidacy for public office;

333 (c) to fulfill a duty or activity of an officeholder;

334 (d) for a donation to a registered political party;

335 (e) for a contribution to another candidate's campaign account, including sponsorship
336 of or attendance at an event, the primary purpose of which is to solicit a contribution for
337 another candidate's campaign account;

338 (f) to return all or a portion of a contribution to a contributor;

339 (g) for the following items, if made in connection with the candidacy for public office
340 or an activity or duty of an officeholder:

341 (i) (A) a mileage allowance at the rate established by the Division of Finance under
342 Section [63A-3-107](#); or

343 (B) for motor fuel or special fuel, as defined in Section [59-13-102](#);

344 (ii) a meal expense;

345 (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;

346 (iv) a payment for a service provided by an attorney or accountant;

347 (v) a tuition payment or registration fee for participation in a meeting or conference;

348 (vi) a gift;

349 (vii) a payment for the following items in connection with an office space:

350 (A) rent;

351 (B) utilities;

- 352 (C) a supply; or
- 353 (D) furnishing;
- 354 (viii) a booth at a meeting or event; or
- 355 (ix) educational material;
- 356 (h) to purchase or mail informational material, a survey, or a greeting card;
- 357 (i) for a donation to a charitable organization, as defined by Section 13-22-2, including
- 358 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,
- 359 as defined in Section 13-22-2;
- 360 (j) to repay a loan a candidate makes from the candidate's personal account to the
- 361 candidate's campaign account;
- 362 (k) to pay membership dues to a national organization whose primary purpose is to
- 363 address general public policy;
- 364 (l) for admission to or sponsorship of an event, the primary purpose of which is to
- 365 promote the social, educational, or economic well-being of the state or the candidate's or
- 366 officeholder's community; [~~or~~]
- 367 (m) for one or more guests of an officeholder or candidate to attend an event, meeting,
- 368 or conference described in this Subsection (2)[~~;~~]; or
- 369 (n) to pay childcare expenses of:
- 370 (A) a candidate while the candidate is engaging in campaign activity; or
- 371 (B) an officeholder while the officeholder is engaging in the duties of an officeholder.
- 372 (3) (a) The lieutenant governor shall enforce this chapter prohibiting a personal use
- 373 expenditure by:
- 374 (i) evaluating a financial statement to identify a personal use expenditure; and
- 375 (ii) commencing an informal adjudicative proceeding in accordance with Title 63G,
- 376 Chapter 4, Administrative Procedures Act, if the lieutenant governor has probable cause to
- 377 believe a candidate or officeholder has made a personal use expenditure.
- 378 (b) Following the proceeding, the lieutenant governor may issue a signed order

379 requiring a candidate or officeholder who has made a personal use expenditure to:

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

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

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