

ELECTION POLLING

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill enacts and amends provisions in Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, regarding polls.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the disclosure of the person who pays for a poll regarding a candidate or ballot proposition; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-101, as last amended by Laws of Utah 2012, Chapter 230

ENACTS:

20A-11-905, Utah Code Annotated 1953

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

Section 1. Section **20A-11-101** is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(2) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by

33 the Utah Code Annotated 1953.

34 (3) "Candidate" means any person who:

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

36 (b) 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 (4) "Chief election officer" means:

40 (a) the lieutenant governor for state office candidates, legislative office candidates,
41 officeholders, political parties, political action committees, corporations, political issues
42 committees, state school board candidates, judges, and labor organizations, as defined in
43 Section 20A-11-1501; and

44 (b) the county clerk for local school board candidates.

45 (5) (a) "Contribution" means any of the following when done for political purposes:

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

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

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

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

54 (v) remuneration from:

55 (A) any organization or its directly affiliated organization that has a registered lobbyist;

56 or

57 (B) any agency or subdivision of the state, including school districts; and

58 (vi) goods or services provided to or for the benefit of the filing entity at less than fair
59 market value.

60 (b) "Contribution" does not include:

61 (i) services provided without compensation by individuals volunteering a portion or all
62 of their time on behalf of the filing entity;

63 (ii) money lent to the filing entity by a financial institution in the ordinary course of

64 business; or

65 (iii) goods or services provided for the benefit of a candidate or political party at less
66 than fair market value that are not authorized by or coordinated with the candidate or political
67 party.

68 (6) "Coordinated with" means that goods or services provided for the benefit of a
69 candidate or political party are provided:

70 (a) with the candidate's or political party's prior knowledge, if the candidate or political
71 party does not object;

72 (b) by agreement with the candidate or political party;

73 (c) in coordination with the candidate or political party; or

74 (d) using official logos, slogans, and similar elements belonging to a candidate or
75 political party.

76 (7) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business
77 organization that is registered as a corporation or is authorized to do business in a state and
78 makes any expenditure from corporate funds for:

79 (i) the purpose of expressly advocating for political purposes; or

80 (ii) the purpose of expressly advocating the approval or the defeat of any ballot
81 proposition.

82 (b) "Corporation" does not mean:

83 (i) a business organization's political action committee or political issues committee; or

84 (ii) a business entity organized as a partnership or a sole proprietorship.

85 (8) "County political party" means, for each registered political party, all of the persons
86 within a single county who, under definitions established by the political party, are members of
87 the registered political party.

88 (9) "County political party officer" means a person whose name is required to be
89 submitted by a county political party to the lieutenant governor in accordance with Section
90 20A-8-402.

91 (10) "Detailed listing" means:

92 (a) for each contribution or public service assistance:

93 (i) the name and address of the individual or source making the contribution or public
94 service assistance;

- 95 (ii) the amount or value of the contribution or public service assistance; and
96 (iii) the date the contribution or public service assistance was made; and
97 (b) for each expenditure:
98 (i) the amount of the expenditure;
99 (ii) the person or entity to whom it was disbursed;
100 (iii) the specific purpose, item, or service acquired by the expenditure; and
101 (iv) the date the expenditure was made.
- 102 (11) "Election" means each:
103 (a) regular general election;
104 (b) regular primary election; and
105 (c) special election at which candidates are eliminated and selected.
- 106 (12) "Electioneering communication" means a communication that:
107 (a) has at least a value of \$10,000;
108 (b) clearly identifies a candidate or judge; and
109 (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising
110 facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly
111 identified candidate's or judge's election date.
- 112 (13) (a) "Expenditure" means:
113 (i) any disbursement from contributions, receipts, or from the separate bank account
114 required by this chapter;
115 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
116 or anything of value made for political purposes;
117 (iii) an express, legally enforceable contract, promise, or agreement to make any
118 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
119 value for political purposes;
120 (iv) compensation paid by a filing entity for personal services rendered by a person
121 without charge to a reporting entity;
122 (v) a transfer of funds between the filing entity and a candidate's personal campaign
123 committee; or
124 (vi) goods or services provided by the filing entity to or for the benefit of another
125 reporting entity for political purposes at less than fair market value.

126 (b) "Expenditure" does not include:

127 (i) services provided without compensation by individuals volunteering a portion or all
128 of their time on behalf of a reporting entity;

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

131 (iii) anything listed in Subsection (13)(a) that is given by a reporting entity to
132 candidates for office or officeholders in states other than Utah.

133 (14) "Federal office" means the office of President of the United States, United States
134 Senator, or United States Representative.

135 (15) "Filing entity" means the reporting entity that is required to file a financial
136 statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

137 (16) "Financial statement" includes any summary report, interim report, verified
138 financial statement, or other statement disclosing contributions, expenditures, receipts,
139 donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial
140 Retention Elections.

141 (17) "Governing board" means the individual or group of individuals that determine the
142 candidates and committees that will receive expenditures from a political action committee,
143 political party, or corporation.

144 (18) "Incorporation" means the process established by Title 10, Chapter 2, Part 1,
145 Incorporation, by which a geographical area becomes legally recognized as a city or town.

146 (19) "Incorporation election" means the election authorized by Section 10-2-111.

147 (20) "Incorporation petition" means a petition authorized by Section 10-2-109.

148 (21) "Individual" means a natural person.

149 (22) "Interim report" means a report identifying the contributions received and
150 expenditures made since the last report.

151 (23) "Legislative office" means the office of state senator, state representative, speaker
152 of the House of Representatives, president of the Senate, and the leader, whip, and assistant
153 whip of any party caucus in either house of the Legislature.

154 (24) "Legislative office candidate" means a person who:

155 (a) files a declaration of candidacy for the office of state senator or state representative;

156 (b) declares oneself to be a candidate for, or actively campaigns for, the position of

157 speaker of the House of Representatives, president of the Senate, or the leader, whip, and
158 assistant whip of any party caucus in either house of the Legislature; or

159 (c) receives contributions, makes expenditures, or gives consent for any other person to
160 receive contributions or make expenditures to bring about the person's nomination or election
161 to a legislative office.

162 (25) "Officeholder" means a person who holds a public office.

163 (26) "Party committee" means any committee organized by or authorized by the
164 governing board of a registered political party.

165 (27) "Person" means both natural and legal persons, including individuals, business
166 organizations, personal campaign committees, party committees, political action committees,
167 political issues committees, and labor organizations, as defined in Section 20A-11-1501.

168 (28) "Personal campaign committee" means the committee appointed by a candidate to
169 act for the candidate as provided in this chapter.

170 (29) "Personal use expenditure" has the same meaning as provided under Section
171 20A-11-104.

172 (30) (a) "Political action committee" means an entity, or any group of individuals or
173 entities within or outside this state, a major purpose of which is to:

174 (i) solicit or receive contributions from any other person, group, or entity for political
175 purposes; or

176 (ii) make expenditures to expressly advocate for any person to refrain from voting or to
177 vote for or against any candidate or person seeking election to a municipal or county office.

178 (b) "Political action committee" includes groups affiliated with a registered political
179 party but not authorized or organized by the governing board of the registered political party
180 that receive contributions or makes expenditures for political purposes.

181 (c) "Political action committee" does not mean:

182 (i) a party committee;

183 (ii) any entity that provides goods or services to a candidate or committee in the regular
184 course of its business at the same price that would be provided to the general public;

185 (iii) an individual;

186 (iv) individuals who are related and who make contributions from a joint checking
187 account;

188 (v) a corporation, except a corporation a major purpose of which is to act as a political
189 action committee; or

190 (vi) a personal campaign committee.

191 (31) "Political convention" means a county or state political convention held by a
192 registered political party to select candidates.

193 (32) (a) "Political issues committee" means an entity, or any group of individuals or
194 entities within or outside this state, a major purpose of which is to:

195 (i) solicit or receive donations from any other person, group, or entity to assist in
196 placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or
197 to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

198 (ii) make expenditures to expressly advocate for any person to sign or refuse to sign a
199 ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any
200 proposed ballot proposition or an incorporation in an incorporation election; or

201 (iii) make expenditures to assist in qualifying or placing a ballot proposition on the
202 ballot or to assist in keeping a ballot proposition off the ballot.

203 (b) "Political issues committee" does not mean:

204 (i) a registered political party or a party committee;

205 (ii) any entity that provides goods or services to an individual or committee in the
206 regular course of its business at the same price that would be provided to the general public;

207 (iii) an individual;

208 (iv) individuals who are related and who make contributions from a joint checking
209 account; or

210 (v) a corporation, except a corporation a major purpose of which is to act as a political
211 issues committee.

212 (33) (a) "Political issues contribution" means any of the following:

213 (i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or
214 anything of value given to a political issues committee;

215 (ii) an express, legally enforceable contract, promise, or agreement to make a political
216 issues donation to influence the approval or defeat of any ballot proposition;

217 (iii) any transfer of funds received by a political issues committee from a reporting
218 entity;

219 (iv) compensation paid by another reporting entity for personal services rendered
220 without charge to a political issues committee; and

221 (v) goods or services provided to or for the benefit of a political issues committee at
222 less than fair market value.

223 (b) "Political issues contribution" does not include:

224 (i) services provided without compensation by individuals volunteering a portion or all
225 of their time on behalf of a political issues committee; or

226 (ii) money lent to a political issues committee by a financial institution in the ordinary
227 course of business.

228 (34) (a) "Political issues expenditure" means any of the following:

229 (i) any payment from political issues contributions made for the purpose of influencing
230 the approval or the defeat of:

231 (A) a ballot proposition; or

232 (B) an incorporation petition or incorporation election;

233 (ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for
234 the express purpose of influencing the approval or the defeat of:

235 (A) a ballot proposition; or

236 (B) an incorporation petition or incorporation election;

237 (iii) an express, legally enforceable contract, promise, or agreement to make any
238 political issues expenditure;

239 (iv) compensation paid by a reporting entity for personal services rendered by a person
240 without charge to a political issues committee; or

241 (v) goods or services provided to or for the benefit of another reporting entity at less
242 than fair market value.

243 (b) "Political issues expenditure" does not include:

244 (i) services provided without compensation by individuals volunteering a portion or all
245 of their time on behalf of a political issues committee; or

246 (ii) money lent to a political issues committee by a financial institution in the ordinary
247 course of business.

248 (35) "Political purposes" means an act done with the intent or in a way to influence or
249 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or

250 against any candidate or a person seeking a municipal or county office at any caucus, political
251 convention, or election.

252 (36) (a) "Poll" means the survey of a person regarding the person's opinion or
253 knowledge of a candidate or ballot proposition, which is conducted in person or by telephone,
254 facsimile, Internet, postal mail, or email.

255 (b) "Poll" does not mean a ballot.

256 ~~(36)~~ (37) "Primary election" means any regular primary election held under the
257 election laws.

258 ~~(37)~~ (38) "Public office" means the office of governor, lieutenant governor, state
259 auditor, state treasurer, attorney general, state or local school board member, state senator, state
260 representative, speaker of the House of Representatives, president of the Senate, and the leader,
261 whip, and assistant whip of any party caucus in either house of the Legislature.

262 ~~(38)~~ (39) (a) "Public service assistance" means the following when given or provided
263 to an officeholder to defray the costs of functioning in a public office or aid the officeholder to
264 communicate with the officeholder's constituents:

265 (i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of
266 money or anything of value to an officeholder; or

267 (ii) goods or services provided at less than fair market value to or for the benefit of the
268 officeholder.

269 (b) "Public service assistance" does not include:

270 (i) anything provided by the state;

271 (ii) services provided without compensation by individuals volunteering a portion or all
272 of their time on behalf of an officeholder;

273 (iii) money lent to an officeholder by a financial institution in the ordinary course of
274 business;

275 (iv) news coverage or any publication by the news media; or

276 (v) any article, story, or other coverage as part of any regular publication of any
277 organization unless substantially all the publication is devoted to information about the
278 officeholder.

279 ~~(39)~~ (40) "Publicly identified class of individuals" means a group of 50 or more
280 individuals sharing a common occupation, interest, or association that contribute to a political

281 action committee or political issues committee and whose names can be obtained by contacting
282 the political action committee or political issues committee upon whose financial statement the
283 individuals are listed.

284 ~~[(40)]~~ (41) "Receipts" means contributions and public service assistance.

285 ~~[(41)]~~ (42) "Registered lobbyist" means a person registered under Title 36, Chapter 11,
286 Lobbyist Disclosure and Regulation Act.

287 ~~[(42)]~~ (43) "Registered political action committee" means any political action
288 committee that is required by this chapter to file a statement of organization with the lieutenant
289 governor's office.

290 ~~[(43)]~~ (44) "Registered political issues committee" means any political issues
291 committee that is required by this chapter to file a statement of organization with the lieutenant
292 governor's office.

293 ~~[(44)]~~ (45) "Registered political party" means an organization of voters that:

294 (a) participated in the last regular general election and polled a total vote equal to 2%
295 or more of the total votes cast for all candidates for the United States House of Representatives
296 for any of its candidates for any office; or

297 (b) has complied with the petition and organizing procedures of Chapter 8, Political
298 Party Formation and Procedures.

299 ~~[(45)]~~ (46) (a) "Remuneration" means a payment:

300 (i) made to a legislator for the period the Legislature is in session; and

301 (ii) that is approximately equivalent to an amount a legislator would have earned
302 during the period the Legislature is in session in the legislator's ordinary course of business.

303 (b) "Remuneration" does not mean anything of economic value given to a legislator by:

304 (i) the legislator's primary employer in the ordinary course of business; or

305 (ii) a person or entity in the ordinary course of business:

306 (A) because of the legislator's ownership interest in the entity; or

307 (B) for services rendered by the legislator on behalf of the person or entity.

308 ~~[(46)]~~ (47) "Reporting entity" means a candidate, a candidate's personal campaign
309 committee, a judge, a judge's personal campaign committee, an officeholder, a party
310 committee, a political action committee, a political issues committee, a corporation, or a labor
311 organization, as defined in Section 20A-11-1501.

312 ~~[(47)]~~ (48) "School board office" means the office of state school board or local school
313 board.

314 ~~[(48)]~~ (49) (a) "Source" means the person or entity that is the legal owner of the
315 tangible or intangible asset that comprises the contribution.

316 (b) "Source" means, for political action committees and corporations, the political
317 action committee and the corporation as entities, not the contributors to the political action
318 committee or the owners or shareholders of the corporation.

319 ~~[(49)]~~ (50) "State office" means the offices of governor, lieutenant governor, attorney
320 general, state auditor, and state treasurer.

321 ~~[(50)]~~ (51) "State office candidate" means a person who:

322 (a) files a declaration of candidacy for a state office; or

323 (b) receives contributions, makes expenditures, or gives consent for any other person to
324 receive contributions or make expenditures to bring about the person's nomination or election
325 to a state office.

326 ~~[(51)]~~ (52) "Summary report" means the year end report containing the summary of a
327 reporting entity's contributions and expenditures.

328 ~~[(52)]~~ (53) "Supervisory board" means the individual or group of individuals that
329 allocate expenditures from a political issues committee.

330 Section 2. Section **20A-11-905** is enacted to read:

331 **20A-11-905. Election polls -- Disclosure required.**

332 A person who conducts a poll shall disclose who paid for the poll to the person being
333 surveyed before or at the conclusion of the poll.