

CAMPAIGN FINANCE DEFINITIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheryl L. Allen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill changes certain definitions in Title 20A, Chapter 11, Campaign and Financial Reporting Requirements.

Highlighted Provisions:

This bill:

- ▶ changes definitions concerning corporations, political action committees, political issues committees, and political issues expenditures;
- ▶ eliminates a definition; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-101, as last amended by Laws of Utah 2008, Chapters 14 and 49

20A-11-1202, as last amended by Laws of Utah 2008, Chapters 225 and 360

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

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



28 **20A-11-101. Definitions.**

29 As used in this chapter:

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

32 (2) "Ballot proposition" includes initiatives, referenda, proposed constitutional
33 amendments, and any other ballot propositions submitted to the voters that are authorized by
34 the Utah Code Annotated 1953.

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

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

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

40 (4) "Chief election officer" means:

41 (a) the lieutenant governor for state office candidates, legislative office candidates,
42 officeholders, political parties, political action committees, corporations, political issues
43 committees, and state school board candidates; and

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

45 (5) "Continuing political party" means an organization of voters that participated in the
46 last regular general election and polled a total vote equal to 2% or more of the total votes cast
47 for all candidates for the United States House of Representatives.

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

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

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

54 (iii) any transfer of funds from another reporting entity or a corporation to the filing
55 entity;

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

58 (v) remuneration from any organization or its directly affiliated organization that has a

59 registered lobbyist to compensate a legislator for a loss of salary or income while the
60 Legislature is in session;

61 (vi) salaries or other remuneration paid to a legislator by any agency or subdivision of
62 the state, including school districts, for the period the Legislature is in session; and

63 (vii) goods or services provided to or for the benefit of the filing entity at less than fair
64 market value.

65 (b) "Contribution" does not include:

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

68 (ii) money lent to the filing entity by a financial institution in the ordinary course of
69 business.

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

73 (i) political purposes; or

74 (ii) the purpose of [~~influencing~~] expressly advocating the approval or the defeat of any
75 ballot proposition.

76 (b) "Corporation" does not mean:

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

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

79 (8) "Detailed listing" means:

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

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

83 (ii) the amount or value of the contribution or public service assistance; and

84 (iii) the date the contribution or public service assistance was made; and

85 (b) for each expenditure:

86 (i) the amount of the expenditure;

87 (ii) the person or entity to whom it was disbursed;

88 (iii) the specific purpose, item, or service acquired by the expenditure; and

89 (iv) the date the expenditure was made.

- 90 (9) "Election" means each:
- 91 (a) regular general election;
- 92 (b) regular primary election; and
- 93 (c) special election at which candidates are eliminated and selected.
- 94 (10) (a) "Expenditure" means:
- 95 (i) any disbursement from contributions, receipts, or from the separate bank account
- 96 required by this chapter;
- 97 (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
- 98 or anything of value made for political purposes;
- 99 (iii) an express, legally enforceable contract, promise, or agreement to make any
- 100 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
- 101 value for political purposes;
- 102 (iv) compensation paid by a corporation or filing entity for personal services rendered
- 103 by a person without charge to a reporting entity;
- 104 (v) a transfer of funds between the filing entity and a candidate's personal campaign
- 105 committee; or
- 106 (vi) goods or services provided by the filing entity to or for the benefit of another
- 107 reporting entity for political purposes at less than fair market value.
- 108 (b) "Expenditure" does not include:
- 109 (i) services provided without compensation by individuals volunteering a portion or all
- 110 of their time on behalf of a reporting entity;
- 111 (ii) money lent to a reporting entity by a financial institution in the ordinary course of
- 112 business; or
- 113 (iii) anything listed in Subsection (10)(a) that is given by a corporation or reporting
- 114 entity to candidates for office or officeholders in states other than Utah.
- 115 (11) "Filing entity" means the reporting entity that is filing a financial statement
- 116 required by this chapter.
- 117 (12) "Financial statement" includes any summary report, interim report, verified
- 118 financial statement, or other statement disclosing contributions, expenditures, receipts,
- 119 donations, or disbursements that is required by this chapter.
- 120 (13) "Governing board" means the individual or group of individuals that determine the

121 candidates and committees that will receive expenditures from a political action committee.

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

124 (15) "Incorporation election" means the election authorized by Section 10-2-111.

125 (16) "Incorporation petition" means a petition authorized by Section 10-2-109.

126 (17) "Individual" means a natural person.

127 (18) "Interim report" means a report identifying the contributions received and
128 expenditures made since the last report.

129 (19) "Legislative office" means the office of state senator, state representative, speaker
130 of the House of Representatives, president of the Senate, and the leader, whip, and assistant
131 whip of any party caucus in either house of the Legislature.

132 (20) "Legislative office candidate" means a person who:

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

134 (b) declares himself to be a candidate for, or actively campaigns for, the position of
135 speaker of the House of Representatives, president of the Senate, or the leader, whip, and
136 assistant whip of any party caucus in either house of the Legislature; and

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

140 (21) "Newly registered political party" means an organization of voters that has
141 complied with the petition and organizing procedures of this chapter to become a registered
142 political party.

143 (22) "Officeholder" means a person who holds a public office.

144 (23) "Party committee" means any committee organized by or authorized by the
145 governing board of a registered political party.

146 (24) "Person" means both natural and legal persons, including individuals, business
147 organizations, personal campaign committees, party committees, political action committees,
148 political issues committees, labor unions, and labor organizations.

149 (25) "Personal campaign committee" means the committee appointed by a candidate to
150 act for the candidate as provided in this chapter.

151 (26) (a) "Political action committee" means an entity, or any group of individuals or

152 entities within or outside this state, [~~that solicits or receives~~] a major purpose of which is to
153 solicit or receive contributions from any other person, group, or entity or makes expenditures:

- 154 (i) for political purposes; or
- 155 (ii) [~~with the intent or in a way to influence or tend to influence, directly or indirectly,~~]
156 to expressly advocate any person to refrain from voting or to vote for or against any candidate
157 for a municipal or county office.

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

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

- 162 (i) a party committee;
- 163 (ii) any entity that provides goods or services to a candidate or committee in the regular
164 course of its business at the same price that would be provided to the general public;
- 165 (iii) an individual;
- 166 (iv) individuals who are related and who make contributions from a joint checking
167 account;
- 168 (v) a corporation; or
- 169 (vi) a personal campaign committee.

170 (27) "Political convention" means a county or state political convention held by a
171 registered political party to select candidates.

172 (28) (a) "Political issues committee" means an entity, or any group of individuals or
173 entities within or outside this state, [~~that solicits or receives~~] a major purpose of which is to
174 solicit or receive donations from any other person, group, or entity or [~~makes~~] make
175 disbursements to [~~influence, or to intend to influence, directly or indirectly,~~] expressly advocate
176 any person to:

- 177 (i) assist in placing a ballot proposition on the ballot, assist in keeping a ballot
178 proposition off the ballot, or refrain from voting or vote for or vote against any ballot
179 proposition; or
- 180 (ii) sign or refuse to sign an incorporation petition or refrain from voting, vote for, or
181 vote against any proposed incorporation in an incorporation election.

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

- 183 (i) a registered political party or a party committee;
- 184 (ii) any entity that provides goods or services to an individual or committee in the
185 regular course of its business at the same price that would be provided to the general public;
- 186 (iii) an individual;
- 187 (iv) individuals who are related and who make contributions from a joint checking
188 account; or
- 189 (v) a corporation, except a corporation whose apparent purpose is to act as a political
190 issues committee.
- 191 (29) (a) "Political issues contribution" means any of the following:
- 192 (i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or
193 anything of value given to a political issues committee;
- 194 (ii) an express, legally enforceable contract, promise, or agreement to make a political
195 issues donation to influence the approval or defeat of any ballot proposition;
- 196 (iii) any transfer of funds received by a political issues committee from a reporting
197 entity;
- 198 (iv) compensation paid by another reporting entity for personal services rendered
199 without charge to a political issues committee; and
- 200 (v) goods or services provided to or for the benefit of a political issues committee at
201 less than fair market value.
- 202 (b) "Political issues contribution" does not include:
- 203 (i) services provided without compensation by individuals volunteering a portion or all
204 of their time on behalf of a political issues committee; or
- 205 (ii) money lent to a political issues committee by a financial institution in the ordinary
206 course of business.
- 207 (30) (a) "Political issues expenditure" means any of the following:
- 208 (i) any payment from political issues contributions made for the purpose of influencing
209 the approval or the defeat of:
- 210 (A) a ballot proposition; or
- 211 (B) an incorporation petition or incorporation election;
- 212 (ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for
213 the express purpose of influencing the approval or the defeat of:

- 214 (A) a ballot proposition; or
- 215 (B) an incorporation petition or incorporation election;
- 216 (iii) an express, legally enforceable contract, promise, or agreement to make any
- 217 political issues expenditure;
- 218 (iv) compensation paid by a reporting entity for personal services rendered by a person
- 219 without charge to a political issues committee; or
- 220 (v) goods or services provided to or for the benefit of another reporting entity at less
- 221 than fair market value.
- 222 (b) "Political issues expenditure" does not include:
- 223 (i) services provided without compensation by individuals volunteering a portion or all
- 224 of their time on behalf of a political issues committee; or
- 225 (ii) money lent to a political issues committee by a financial institution in the ordinary
- 226 course of business.
- 227 (31) "Political purposes" means an act done with the intent or in a way to influence or
- 228 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
- 229 against any candidate for public office at any caucus, political convention, primary, or election.
- 230 (32) "Primary election" means any regular primary election held under the election
- 231 laws.
- 232 (33) "Public office" means the office of governor, lieutenant governor, state auditor,
- 233 state treasurer, attorney general, state or local school board member, state senator, state
- 234 representative, speaker of the House of Representatives, president of the Senate, and the leader,
- 235 whip, and assistant whip of any party caucus in either house of the Legislature.
- 236 (34) (a) "Public service assistance" means the following when given or provided to an
- 237 officeholder to defray the costs of functioning in a public office or aid the officeholder to
- 238 communicate with the officeholder's constituents:
- 239 (i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of
- 240 money or anything of value to an officeholder; or
- 241 (ii) goods or services provided at less than fair market value to or for the benefit of the
- 242 officeholder.
- 243 (b) "Public service assistance" does not include:
- 244 (i) anything provided by the state;

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

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

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

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

253 (35) "Publicly identified class of individuals" means a group of 50 or more individuals
254 sharing a common occupation, interest, or association that contribute to a political action
255 committee or political issues committee and whose names can be obtained by contacting the
256 political action committee or political issues committee upon whose financial report they are
257 listed.

258 (36) "Receipts" means contributions and public service assistance.

259 (37) "Registered lobbyist" means a person registered under Title 36, Chapter 11,
260 Lobbyist Disclosure and Regulation Act.

261 (38) "Registered political action committee" means any political action committee that
262 is required by this chapter to file a statement of organization with the lieutenant governor's
263 office.

264 (39) "Registered political issues committee" means any political issues committee that
265 is required by this chapter to file a statement of organization with the lieutenant governor's
266 office.

267 (40) "Registered political party" means an organization of voters that:

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

271 (b) has complied with the petition and organizing procedures of this chapter.

272 (41) "Reporting entity" means a candidate, a candidate's personal campaign committee,
273 an officeholder, a party committee, a political action committee, and a political issues
274 committee.

275 (42) "School board office" means the office of state school board or local school board.

276 (43) (a) "Source" means the person or entity that is the legal owner of the tangible or
277 intangible asset that comprises the contribution.

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

281 (44) "State office" means the offices of governor, lieutenant governor, attorney general,
282 state auditor, and state treasurer.

283 (45) "State office candidate" means a person who:

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

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

288 (46) "Summary report" means the year end report containing the summary of a
289 reporting entity's contributions and expenditures.

290 (47) "Supervisory board" means the individual or group of individuals that allocate
291 expenditures from a political issues committee.

292 Section 2. Section **20A-11-1202** is amended to read:

293 **20A-11-1202. Definitions.**

294 As used in this part:

295 (1) "Ballot proposition" means constitutional amendments, initiatives, referenda,
296 judicial retention questions, opinion questions, bond approvals, or other questions submitted to
297 the voters for their approval or rejection.

298 (2) (a) "Commercial interlocal cooperation agency" means an interlocal cooperation
299 agency that receives its revenues from conduct of its commercial operations.

300 (b) "Commercial interlocal cooperation agency" does not mean an interlocal
301 cooperation agency that receives some or all of its revenues from:

302 (i) government appropriations;

303 (ii) taxes;

304 (iii) government fees imposed for regulatory or revenue raising purposes; or

305 (iv) interest earned on public funds or other returns on investment of public funds.

306 (3) "Expenditure" means:

307 (a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money,
308 or anything of value;

309 (b) an express, legally enforceable contract, promise, or agreement to make any
310 purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of
311 value;

312 (c) a transfer of funds between a public entity and a candidate's personal campaign
313 committee;

314 (d) a transfer of funds between a public entity and a political issues committee; or

315 (e) goods or services provided to or for the benefit of a candidate, a candidate's
316 personal campaign committee, or a political issues committee for political purposes at less than
317 fair market value.

318 (4) "Governmental interlocal cooperation agency" means an interlocal cooperation
319 agency that receives some or all of its revenues from:

320 (a) government appropriations;

321 (b) taxes;

322 (c) government fees imposed for regulatory or revenue raising purposes; or

323 (d) interest earned on public funds or other returns on investment of public funds.

324 (5) (a) "Influence" means to campaign or advocate for or against a ballot proposition.

325 (b) "Influence" does not mean providing a brief statement about a public entity's
326 position on a ballot proposition and the reason for that position.

327 (6) "Interlocal cooperation agency" means an entity created by interlocal agreement
328 under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

329 (7) "Local district" means an entity under Title 17B, Limited Purpose Local
330 Government Entities - Local Districts, and includes a special service district under Title 17D,
331 Chapter 1, Special Service District Act.

332 ~~[(8) (a) "Political issues committee" means an entity, or any group of individuals or~~
333 ~~entities within or outside this state, that solicits or receives a contribution from any other~~
334 ~~person, group, or entity and makes an expenditure from one or more contributions to influence,~~
335 ~~or to intend to influence, directly or indirectly, any person to assist in placing a ballot~~
336 ~~proposition on the ballot, to assist in keeping a ballot proposition off the ballot, or to refrain~~
337 ~~from voting or to vote for or to vote against any ballot proposition.]~~

338 ~~[(b) "Political issues committee" does not mean an entity that provides goods or~~
339 ~~services to an individual or committee in the regular course of its business at the same price~~
340 ~~that would be provided to the general public.]~~

341 ~~[(9)] (8) "Political purposes" means an act done with the intent or in a way to influence~~
342 ~~or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or~~
343 ~~against any candidate for public office at any caucus, political convention, primary, or election.~~

344 ~~[(10)] (9) (a) "Public entity" includes the state, each state agency, each county,~~
345 ~~municipality, school district, local district, governmental interlocal cooperation agency, and~~
346 ~~each administrative subunit of each of them.~~

347 (b) "Public entity" does not include a commercial interlocal cooperation agency.

348 (c) "Public entity" includes local health departments created under Title 26, Chapter 1,
349 ~~[Local Health Departments]~~ Department of Health Organization.

350 ~~[(11)] (10) (a) "Public funds" means any monies received by a public entity from~~
351 ~~appropriations, taxes, fees, interest, or other returns on investment.~~

352 (b) "Public funds" does not include monies donated to a public entity by a person or
353 entity.

354 ~~[(12)] (11) (a) "Public official" means an elected or appointed member of government~~
355 ~~with authority to make or determine public policy.~~

356 (b) "Public official" includes the person or group that:

357 (i) has supervisory authority over the personnel and affairs of a public entity; and

358 (ii) approves the expenditure of funds for the public entity.

359 ~~[(13)] (12) (a) "State agency" means each department, commission, board, council,~~
360 ~~agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory,~~
361 ~~library, unit, bureau, panel, or other administrative unit of the state.~~

362 (b) "State agency" includes the legislative branch, the Board of Regents, the
363 institutional councils of each higher education institution, and each higher education
364 institution.

Legislative Review Note
as of 1-12-09 7:15 AM

Office of Legislative Research and General Counsel

H.B. 98 - Campaign Finance Definitions

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
