

MODIFICATIONS TO CAMPAIGN FINANCE**PROVISIONS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill limits campaign contributions for certain offices and addresses the use of campaign funds.

Highlighted Provisions:

This bill:

- ▶ changes the definition of "political purposes";
- ▶ imposes contribution limits on state office candidates and legislative office candidates;
- ▶ imposes a criminal penalty for a violation of the contribution limit;
- ▶ requires legislative office candidates to limit the use of campaign funds to expenditures for political purposes;
- ▶ removes inconsistent definitions of "political purposes"; 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-11-301, as last amended by Laws of Utah 1997, Chapter 355

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

20A-11-1402, as last amended by Laws of Utah 2004, Chapter 220

ENACTS:

20A-11-208, Utah Code Annotated 1953

20A-11-307, 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 the Utah Code Annotated 1953.

(3) "Candidate" means any person who:

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

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

(4) "Chief election officer" means:

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

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

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

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

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

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

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

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

(v) remuneration from any organization or its directly affiliated organization that has a registered lobbyist to compensate a legislator for a loss of salary or income while the Legislature is in session;

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

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

(b) "Contribution" does not include:

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

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

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

(i) political purposes; or

(ii) the purpose of influencing the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

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

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

(8) "Detailed listing" means:

(a) for each contribution or public service assistance:

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

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

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

(b) for each expenditure:

(i) the amount of the expenditure;

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

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

(iv) the date the expenditure was made.

(9) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(10) (a) "Expenditure" means:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

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

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

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

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; or

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

(b) "Expenditure" does not include:

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

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

business; or

(iii) anything listed in Subsection (10)(a) that is given by a corporation or reporting entity to candidates for office or officeholders in states other than Utah.

(11) "Filing entity" means the reporting entity that is filing a financial statement required by this chapter.

(12) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter.

(13) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee.

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

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

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

(17) "Individual" means a natural person.

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

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

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

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

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

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

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

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

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

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

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

(26) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, that solicits or receives contributions from any other person, group, or entity or makes expenditures:

(i) for political purposes; or

(ii) with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate for a municipal or county office.

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

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

(i) a party committee;

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

(iii) an individual;

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

(v) a corporation; or

(vi) a personal campaign committee.

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

(28) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, that solicits or receives donations from any other person,

183 group, or entity or makes disbursements to influence, or to intend to influence, directly or
184 indirectly, any person to:

185 (i) assist in placing a ballot proposition on the ballot, assist in keeping a ballot
186 proposition off the ballot, or refrain from voting or vote for or vote against any ballot
187 proposition; or

188 (ii) sign or refuse to sign an incorporation petition or refrain from voting, vote for, or
189 vote against any proposed incorporation in an incorporation election.

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

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

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

194 (iii) an individual;

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

197 (v) a corporation, except a corporation whose apparent purpose is to act as a political
198 issues committee.

199 (29) (a) "Political issues contribution" means any of the following:

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

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

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

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

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

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

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

213 (ii) money lent to a political issues committee by a financial institution in the ordinary

214 course of business.

215 (30) (a) "Political issues expenditure" means any of the following:

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

218 (A) a ballot proposition; or

219 (B) an incorporation petition or incorporation election;

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

222 (A) a ballot proposition; or

223 (B) an incorporation petition or incorporation election;

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

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

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

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

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

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

235 (31) "Political purposes" means ~~[an act done with the intent or in a way to influence or~~
236 ~~tend to influence, directly or indirectly, any person to refrain from voting or to vote for or~~
237 ~~against any candidate for public office at any caucus, political convention, primary, or~~
238 ~~election.]~~ an act that is reasonably related to:

239 (a) a candidate's election to public office at any caucus, political convention, or
240 election; or

241 (b) fulfilling the duties of a public office to which the person doing the act has been
242 elected.

243 (32) "Primary election" means any regular primary election held under the election
244 laws.

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

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

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

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

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

(i) anything provided by the state;

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

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

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

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

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

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

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

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

office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. Section **20A-11-208** is enacted to read:

20A-11-208. Limit on contributions.

(1) A state office candidate may not accept more than \$15,000 from any person for each election at which the candidate's name is on the ballot.

(2) A state office candidate who violates this section is guilty of a class B misdemeanor.

Section 3. Section **20A-11-301** is amended to read:

20A-11-301. Legislative office candidate -- Campaign requirements.

(1) Each legislative office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) A legislative office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A legislative office candidate may ~~[not make any political expenditures prohibited by law]~~ use the monies in a campaign account only for political purposes.

(4) If a person who is no longer a legislative candidate chooses not to expend the monies remaining in his campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

Section 4. Section **20A-11-307** is enacted to read:

20A-11-307. Limit on contributions.

(1) A legislative office candidate seeking office in the House of Representatives may not accept more than \$200 from any person for each election at which the candidate's name is on the ballot.

(2) A legislative office candidate seeking office in the Senate may not accept more than \$500 from any person for each election at which the candidate's name is on the ballot.

(3) A legislative candidate who violates this section is guilty of a class B misdemeanor.

Section 5. Section **20A-11-1202** is amended to read:

20A-11-1202. Definitions.

As used in this part:

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

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

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

342 (i) government appropriations;

343 (ii) taxes;

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

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

346 (3) "Expenditure" means:

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

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

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

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

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

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

360 (a) government appropriations;

361 (b) taxes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

400 ~~[(13)]~~ (12) (a) "State agency" means each department, commission, board, council,
401 agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory,
402 library, unit, bureau, panel, or other administrative unit of the state.

403 (b) "State agency" includes the legislative branch, the Board of Regents, the
404 institutional councils of each higher education institution, and each higher education
405 institution.

406 Section 6. Section **20A-11-1402** is amended to read:

407 **20A-11-1402. Definitions.**

408 (1) As used in this part:

409 (a) "Ballot proposition" includes constitutional amendments, initiatives, referenda,
410 judicial retention questions, opinion questions, or other questions submitted to the voters for
411 their approval or rejection.

412 (b) (i) "Labor organization" means a lawful organization of any kind that is composed,
413 in whole or in part, of employees and that exists for the purpose, in whole or in part, of dealing
414 with employers concerning grievances, labor disputes, wages, rates of pay, hours of
415 employment, or other terms and conditions of employment.

416 (ii) Except as provided in Subsection (1)(b)(iii), "labor organization" includes each
417 employee association and union for employees of public and private sector employers.

418 (iii) "Labor organization" does not include organizations governed by the National
419 Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151
420 et seq.

421 (c) "Political fund" means a separate segregated fund established by a labor
422 organization for political purposes that meets the requirements of this part.

423 ~~[(d) "Political purposes" means an act done with the intent or in a way to influence or~~
424 ~~tend to influence, directly or indirectly, any person to refrain from voting or to vote for or~~
425 ~~against any candidate for public office at any caucus, political convention, primary, or~~
426 ~~election.]~~

427 ~~[(e)]~~ (d) "Union dues" means dues, fees, monies, or other assessments required as a
428 condition of membership or participation in a labor organization.

429 (2) Other terms defined in Section 20A-11-101 apply to this part.

Legislative Review Note

as of 1-20-09 8:38 AM

Office of Legislative Research and General Counsel

H.B. 109 - Modifications to Campaign Finance Provisions

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 businesses or local governments. State office candidates will be impacted with a \$15,000 campaign contribution limit per person; state senate candidates with a \$500 campaign contribution limit per person; and state house of representatives candidates with a \$200 campaign contribution limit per person.
