

POLITICAL ACTIVITIES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Election Code relating to political activity.

Highlighted Provisions:

This bill:

- ▶ amends the definitions of a political action committee and a political issues committee; and
- ▶ limits the definition of "political purposes" to an act of "express advocacy."

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 2015, Chapters 21, 26, 352, and 388

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



28 reporting entity has its principal office.

29 (2) "Agent of a reporting entity" means:

30 (a) a person acting on behalf of a reporting entity at the direction of the reporting
31 entity;

32 (b) a person employed by a reporting entity in the reporting entity's capacity as a
33 reporting entity;

34 (c) the personal campaign committee of a candidate or officeholder;

35 (d) a member of the personal campaign committee of a candidate or officeholder in the
36 member's capacity as a member of the personal campaign committee of the candidate or
37 officeholder; or

38 (e) a political consultant of a reporting entity.

39 (3) "Ballot proposition" includes initiatives, referenda, proposed constitutional
40 amendments, and any other ballot propositions submitted to the voters that are authorized by
41 the Utah Code Annotated 1953.

42 (4) "Candidate" means any person who:

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

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

47 (5) "Chief election officer" means:

48 (a) the lieutenant governor for state office candidates, legislative office candidates,
49 officeholders, political parties, political action committees, corporations, political issues
50 committees, state school board candidates, judges, and labor organizations, as defined in
51 Section [20A-11-1501](#); and

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

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

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

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

- 59 (iii) any transfer of funds from another reporting entity to the filing entity;
- 60 (iv) compensation paid by any person or reporting entity other than the filing entity for
- 61 personal services provided without charge to the filing entity;
- 62 (v) remuneration from:
 - 63 (A) any organization or its directly affiliated organization that has a registered lobbyist;
 - 64 or
 - 65 (B) any agency or subdivision of the state, including school districts;
- 66 (vi) a loan made by a candidate deposited to the candidate's own campaign; and
- 67 (vii) in-kind contributions.
- 68 (b) "Contribution" does not include:
 - 69 (i) services provided by individuals volunteering a portion or all of their time on behalf
 - 70 of the filing entity if the services are provided without compensation by the filing entity or any
 - 71 other person;
 - 72 (ii) money lent to the filing entity by a financial institution in the ordinary course of
 - 73 business; or
 - 74 (iii) goods or services provided for the benefit of a candidate or political party at less
 - 75 than fair market value that are not authorized by or coordinated with the candidate or political
 - 76 party.
- 77 (7) "Coordinated with" means that goods or services provided for the benefit of a
- 78 candidate or political party are provided:
 - 79 (a) with the candidate's or political party's prior knowledge, if the candidate or political
 - 80 party does not object;
 - 81 (b) by agreement with the candidate or political party;
 - 82 (c) in coordination with the candidate or political party; or
 - 83 (d) using official logos, slogans, and similar elements belonging to a candidate or
 - 84 political party.
- 85 (8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business
- 86 organization that is registered as a corporation or is authorized to do business in a state and
- 87 makes any expenditure from corporate funds for:
 - 88 (i) the purpose of expressly advocating for political purposes; or
 - 89 (ii) the purpose of expressly advocating the approval or the defeat of any ballot

90 proposition.

91 (b) "Corporation" does not mean:

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

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

94 (9) "County political party" means, for each registered political party, all of the persons
95 within a single county who, under definitions established by the political party, are members of
96 the registered political party.

97 (10) "County political party officer" means a person whose name is required to be
98 submitted by a county political party to the lieutenant governor in accordance with Section
99 [20A-8-402](#).

100 (11) "Detailed listing" means:

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

102 (i) the name and address of the individual or source making the contribution or public
103 service assistance, except to the extent that the name or address of the individual or source is
104 unknown;

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

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

107 (b) for each expenditure:

108 (i) the amount of the expenditure;

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

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

111 (iv) the date the expenditure was made.

112 (12) (a) "Donor" means a person that gives money, including a fee, due, or assessment
113 for membership in the corporation, to a corporation without receiving full and adequate
114 consideration for the money.

115 (b) "Donor" does not include a person that signs a statement that the corporation may
116 not use the money for an expenditure or political issues expenditure.

117 (13) "Election" means each:

118 (a) regular general election;

119 (b) regular primary election; and

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

121 (14) "Electioneering communication" means a communication that:

122 (a) has at least a value of \$10,000;

123 (b) clearly identifies a candidate or judge; and

124 (c) is disseminated through the Internet, newspaper, magazine, outdoor advertising
125 facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly
126 identified candidate's or judge's election date.

127 (15) (a) "Expenditure" means any of the following made by a reporting entity or an
128 agent of a reporting entity on behalf of the reporting entity:

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

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

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

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

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

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

142 (b) "Expenditure" does not include:

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

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

147 (iii) anything listed in Subsection (15)(a) that is given by a reporting entity to
148 candidates for office or officeholders in states other than Utah.

149 (16) "Federal office" means the office of president of the United States, United States
150 Senator, or United States Representative.

151 (17) "Filing entity" means the reporting entity that is required to file a financial

152 statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

153 (18) "Financial statement" includes any summary report, interim report, verified
154 financial statement, or other statement disclosing contributions, expenditures, receipts,
155 donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial
156 Retention Elections.

157 (19) "Governing board" means the individual or group of individuals that determine the
158 candidates and committees that will receive expenditures from a political action committee,
159 political party, or corporation.

160 (20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal
161 Incorporation, by which a geographical area becomes legally recognized as a city, town, or
162 metro township.

163 (21) "Incorporation election" means the election authorized by Section [10-2a-210](#),
164 [10-2a-304](#), or [10-2a-404](#).

165 (22) "Incorporation petition" means a petition authorized by Section [10-2a-208](#) or
166 [10-2a-302](#).

167 (23) "Individual" means a natural person.

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

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

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

175 (27) "Legislative office candidate" means a person who:

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

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

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

183 (28) "Major political party" means either of the two registered political parties that
184 have the greatest number of members elected to the two houses of the Legislature.

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

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

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

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

193 (33) "Personal use expenditure" has the same meaning as provided under Section
194 20A-11-104.

195 (34) (a) "Political action committee" means an entity, or any group of individuals or
196 entities within or outside this state, [a] the major purpose of which is to:

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

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

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

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

205 (i) a party committee;

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

208 (iii) an individual;

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

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

213 (vi) a personal campaign committee.

214 (35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid
215 by another person on behalf of and with the knowledge of the reporting entity, to provide
216 political advice to the reporting entity.

217 (b) "Political consultant" includes a circumstance described in Subsection (35)(a),
218 where the person:

219 (i) has already been paid, with money or other consideration;

220 (ii) expects to be paid in the future, with money or other consideration; or

221 (iii) understands that the person may, in the discretion of the reporting entity or another
222 person on behalf of and with the knowledge of the reporting entity, be paid in the future, with
223 money or other consideration.

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

226 (37) (a) "Political issues committee" means an entity, or any group of individuals or
227 entities within or outside this state, [a] the major purpose of which is to:

228 (i) solicit or receive donations from any other person, group, or entity to assist in
229 placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or
230 to expressly advocate [~~that~~] for a voter refrain from voting or vote for or vote against any ballot
231 proposition;

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

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

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

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

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

241 (iii) an individual;

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

244 (v) a corporation, except a corporation a major purpose of which is to act as a political

245 issues committee; or

246 (vi) a group of individuals who:

247 (A) associate together for the purpose of challenging a single ballot proposition,
248 ordinance, or other governmental action by a county, city, town, local district, special service
249 district, or other local political subdivision of the state;

250 (B) have a common liberty, property, or financial interest that is directly impacted by
251 the ballot proposition, ordinance, or other governmental action;

252 (C) do not associate together, for the purpose described in Subsection (37)(b)(vi)(A),
253 via a legal entity;

254 (D) do not receive funds for challenging the ballot proposition, ordinance, or other
255 governmental action from a person other than an individual in the group; and

256 (E) do not expend a total of more than \$5,000 for the purpose described in Subsection
257 (37)(b)(vi)(A).

258 (38) (a) "Political issues contribution" means any of the following:

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

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

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

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

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

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

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

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

274 (39) (a) "Political issues expenditure" means any of the following when made by a
275 political issues committee or on behalf of a political issues committee by an agent of the

276 reporting entity:

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

279 (A) a ballot proposition; or

280 (B) an incorporation petition or incorporation election;

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

283 (A) a ballot proposition; or

284 (B) an incorporation petition or incorporation election;

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

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

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

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

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

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

296 (40) "Political purposes" means an act done [~~with the intent or in a way to influence or~~
297 ~~tend to influence, directly or indirectly, any~~] to expressly advocate for a person to refrain from
298 voting or to vote for or against any:

299 (a) candidate or a person seeking a municipal or county office at any caucus, political
300 convention, or election; or

301 (b) judge standing for retention at any election.

302 (41) (a) "Poll" means the survey of a person regarding the person's opinion or
303 knowledge of an individual who has filed a declaration of candidacy for public office, or of a
304 ballot proposition that has legally qualified for placement on the ballot, which is conducted in
305 person or by telephone, facsimile, Internet, postal mail, or email.

306 (b) "Poll" does not include:

- 307 (i) a ballot; or
- 308 (ii) an interview of a focus group that is conducted, in person, by one individual, if:
 - 309 (A) the focus group consists of more than three, and less than thirteen, individuals; and
 - 310 (B) all individuals in the focus group are present during the interview.
- 311 (42) "Primary election" means any regular primary election held under the election
- 312 laws.
- 313 (43) "Publicly identified class of individuals" means a group of 50 or more individuals
- 314 sharing a common occupation, interest, or association that contribute to a political action
- 315 committee or political issues committee and whose names can be obtained by contacting the
- 316 political action committee or political issues committee upon whose financial statement the
- 317 individuals are listed.
- 318 (44) "Public office" means the office of governor, lieutenant governor, state auditor,
- 319 state treasurer, attorney general, state school board member, state senator, state representative,
- 320 speaker of the House of Representatives, president of the Senate, and the leader, whip, and
- 321 assistant whip of any party caucus in either house of the Legislature.
- 322 (45) (a) "Public service assistance" means the following when given or provided to an
- 323 officeholder to defray the costs of functioning in a public office or aid the officeholder to
- 324 communicate with the officeholder's constituents:
 - 325 (i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of
 - 326 money or anything of value to an officeholder; or
 - 327 (ii) goods or services provided at less than fair market value to or for the benefit of the
 - 328 officeholder.
- 329 (b) "Public service assistance" does not include:
 - 330 (i) anything provided by the state;
 - 331 (ii) services provided without compensation by individuals volunteering a portion or all
 - 332 of their time on behalf of an officeholder;
 - 333 (iii) money lent to an officeholder by a financial institution in the ordinary course of
 - 334 business;
 - 335 (iv) news coverage or any publication by the news media; or
 - 336 (v) any article, story, or other coverage as part of any regular publication of any
 - 337 organization unless substantially all the publication is devoted to information about the

338 officeholder.

339 (46) "Receipts" means contributions and public service assistance.

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

342 (48) "Registered political action committee" means any political action committee that
343 is required by this chapter to file a statement of organization with the Office of the Lieutenant
344 Governor.

345 (49) "Registered political issues committee" means any political issues committee that
346 is required by this chapter to file a statement of organization with the Office of the Lieutenant
347 Governor.

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

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

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

354 (51) (a) "Remuneration" means a payment:

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

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

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

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

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

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

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

363 (52) "Reporting entity" means a candidate, a candidate's personal campaign committee,
364 a judge, a judge's personal campaign committee, an officeholder, a party committee, a political
365 action committee, a political issues committee, a corporation, or a labor organization, as
366 defined in Section [20A-11-1501](#).

367 (53) "School board office" means the office of state school board.

368 (54) (a) "Source" means the person or entity that is the legal owner of the tangible or

369 intangible asset that comprises the contribution.

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

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

375 (56) "State office candidate" means a person who:

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

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

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

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

Legislative Review Note
Office of Legislative Research and General Counsel