

**Senator Deidre M. Henderson** proposes the following substitute bill:

**CAMPAIGN AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Craig Hall**

Senate Sponsor: Deidre M. Henderson

Cosponsor: Stephanie Pitcher

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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



25            **20A-11-104**, as last amended by Laws of Utah 2013, Chapter 320

26  
27 *Be it enacted by the Legislature of the state of Utah:*

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

29            **10-3-209. Personal use expenditure -- Authorized and prohibited uses of**  
30 **campaign funds -- Enforcement -- Penalties.**

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

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

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

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

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

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

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

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

47            (ii) "Personal use expenditure" includes:

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

49            (B) a household food item or supply;

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

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

54            (E) dues, fees, or gratuities at a country club, health club, or recreational facility;

55            (F) a salary payment made to a candidate, officeholder, or a person who has not

- 56 provided a bona fide service to a candidate or officeholder;
- 57 (G) a vacation;
- 58 (H) a vehicle expense;
- 59 (I) a meal expense;
- 60 (J) a travel expense;
- 61 (K) a payment of an administrative, civil, or criminal penalty;
- 62 (L) a satisfaction of a personal debt;
- 63 (M) a personal service, including the service of an attorney, accountant, physician, or
- 64 other professional person;
- 65 (N) a membership fee for a professional or service organization; and
- 66 (O) a payment in excess of the fair market value of the item or service purchased.
- 67 (2) As used in this section, "personal use expenditure" does not mean an expenditure
- 68 made:
- 69 (a) for a political purpose;
- 70 (b) for candidacy for public office;
- 71 (c) to fulfill a duty or activity of an officeholder;
- 72 (d) for a donation to a registered political party;
- 73 (e) for a contribution to another candidate's campaign account, including sponsorship
- 74 of or attendance at an event, the primary purpose of which is to solicit a contribution for
- 75 another candidate's campaign account;
- 76 (f) to return all or a portion of a contribution to a donor;
- 77 (g) for the following items, if made in connection with the candidacy for public office
- 78 or an activity or duty of an officeholder:
- 79 (i) (A) a mileage allowance at the rate established by the Division of Finance under
- 80 Section [63A-3-107](#); or
- 81 (B) for motor fuel or special fuel, as defined in Section [59-13-102](#);
- 82 (ii) a meal expense;
- 83 (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
- 84 (iv) a payment for a service provided by an attorney or accountant;
- 85 (v) a tuition payment or registration fee for participation in a meeting or conference;
- 86 (vi) a gift;

- 87 (vii) a payment for the following items in connection with an office space:
- 88 (A) rent;
- 89 (B) utilities;
- 90 (C) a supply; or
- 91 (D) furnishing;
- 92 (viii) a booth at a meeting or event; or
- 93 (ix) educational material;
- 94 (h) to purchase or mail informational material, a survey, or a greeting card;
- 95 (i) for a donation to a charitable organization, as defined by Section 13-22-2, including
- 96 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,
- 97 as defined in Section 13-22-2;
- 98 (j) to repay a loan a candidate makes from the candidate's personal account to the
- 99 candidate's campaign account;
- 100 (k) to pay membership dues to a national organization whose primary purpose is to
- 101 address general public policy;
- 102 (l) for admission to or sponsorship of an event, the primary purpose of which is to
- 103 promote the social, educational, or economic well-being of the state or the candidate's or
- 104 officeholder's community; [~~or~~]
- 105 (m) for one or more guests of an officeholder or candidate to attend an event, meeting,
- 106 or conference described in this Subsection (2)[~~;~~]; or
- 107 (n) to pay childcare expenses of:
- 108 (A) a candidate while the candidate is engaging in campaign activity; or
- 109 (B) an officeholder while the officeholder is engaging in the duties of an officeholder.
- 110 (3) (a) A municipality may adopt an ordinance prohibiting a personal use expenditure
- 111 by a candidate with requirements that are more stringent than the requirements provided in
- 112 Subsection (4).
- 113 (b) The municipality may adopt definitions that are more stringent than those provided
- 114 in Subsection (1) or (2).
- 115 (c) If a municipality fails to adopt a personal use expenditure ordinance described in
- 116 Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).
- 117 (4) A candidate or an officeholder may not use money deposited into a campaign

118 account for:

119 (a) a personal use expenditure; or

120 (b) an expenditure prohibited by law.

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

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

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

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

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

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

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

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

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

138 **17-16-202. Definitions.**

139 As used in this part:

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

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

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

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

148 (iv) compensation paid by any person or reporting entity other than the filing entity for

149 personal services provided without charge to the filing entity;

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

152 (vi) an in-kind contribution.

153 (b) "Contribution" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

186 (b) "Expenditure" does not include:

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

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

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

193 (6) "Filing entity" means:

194 (a) a county office candidate;

195 (b) a county officer;

196 (c) a local school board candidate;

197 (d) a local school board member; or

198 (e) a reporting entity that is required to meet a campaign finance disclosure  
199 requirement adopted by a county in accordance with Section [17-16-6.5](#).

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

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

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

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

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

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

210 (B) primarily furthers a personal interest of a county office candidate, county officer,

211 local school board candidate, or a local school board member, or a member of a county office  
212 candidate's, county officer's, local school board candidate's, or local school board member's  
213 family; or

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

217 (b) "Personal use expenditure" includes:

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

219 (ii) a household food item or supply;

220 (iii) clothing, except for clothing:

221 (A) bearing the county office candidate's or local school board candidate's name or  
222 campaign slogan or logo; and

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

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

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

227 (vi) a salary payment made to:

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

230 (B) a person who has not provided a bona fide service to a county candidate, county  
231 officer, local school board candidate, or local school board member;

232 (vii) a vacation;

233 (viii) a vehicle expense;

234 (ix) a meal expense;

235 (x) a travel expense;

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

237 (xii) satisfaction of a personal debt;

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

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

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



- 242 (c) "Personal use expenditure" does not include an expenditure made:  
243 (i) for a political purpose;  
244 (ii) for candidacy for county office or local school board;  
245 (iii) to fulfill a duty or activity of a county officer or local school board member;  
246 (iv) for a donation to a registered political party;  
247 (v) for a contribution to another candidate's campaign account, including sponsorship  
248 of or attendance at an event, the primary purpose of which is to solicit a contribution for  
249 another candidate's campaign account;  
250 (vi) to return all or a portion of a contribution to a contributor;  
251 (vii) for the following items, if made in connection with the candidacy for county  
252 office or local school board, or an activity or duty of a county officer or local school board  
253 member:  
254 (A) a mileage allowance at the rate established by the political subdivision that  
255 provides the mileage allowance;  
256 (B) for motor fuel or special fuel, as defined in Section 59-13-102;  
257 (C) a meal expense;  
258 (D) a travel expense, including an expense incurred for airfare or a rental vehicle;  
259 (E) a payment for a service provided by an attorney or accountant;  
260 (F) a tuition payment or registration fee for participation in a meeting or conference;  
261 (G) a gift;  
262 (H) a payment for rent, utilities, a supply, or furnishings, in connection with an office  
263 space;  
264 (I) a booth at a meeting or event; or  
265 (J) educational material;  
266 (viii) to purchase or mail informational material, a survey, or a greeting card;  
267 (ix) for a donation to a charitable organization, as defined in Section 13-22-2, including  
268 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,  
269 as defined in Section 13-22-2;  
270 (x) to repay a loan a county office candidate or local school board candidate makes  
271 from the candidate's personal account to the candidate's campaign account;  
272 (xi) to pay membership dues to a national organization whose primary purpose is to

273 address general public policy;

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

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

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

283 (xv) to pay childcare expenses of:

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

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

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

290 (11) "Reporting entity":

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

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

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

296 **20A-11-104. Personal use expenditure -- Authorized and prohibited uses of**  
297 **campaign funds -- Enforcement -- Penalties.**

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

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

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

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

306 (b) "Personal use expenditure" includes:

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

308 (ii) a household food item or supply;

309 (iii) clothing, except for clothing:

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

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

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

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

315 (vi) a salary payment made to:

316 (A) a candidate or officeholder; or

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

318 (vii) a vacation;

319 (viii) a vehicle expense;

320 (ix) a meal expense;

321 (x) a travel expense;

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

323 (xii) a satisfaction of a personal debt;

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

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

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

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

330 (a) for a political purpose;

331 (b) for candidacy for public office;

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

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

334 (e) for a contribution to another candidate's campaign account, including sponsorship

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

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

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

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

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

343 (ii) a meal expense;

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

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

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

347 (vi) a gift;

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

349 (A) rent;

350 (B) utilities;

351 (C) a supply; or

352 (D) furnishing;

353 (viii) a booth at a meeting or event; or

354 (ix) educational material;

355 (h) to purchase or mail informational material, a survey, or a greeting card;

356 (i) for a donation to a charitable organization, as defined by Section [13-22-2](#), including  
357 admission to or sponsorship of an event, the primary purpose of which is charitable solicitation,  
358 as defined in Section [13-22-2](#);

359 (j) to repay a loan a candidate makes from the candidate's personal account to the  
360 candidate's campaign account;

361 (k) to pay membership dues to a national organization whose primary purpose is to  
362 address general public policy;

363 (l) for admission to or sponsorship of an event, the primary purpose of which is to  
364 promote the social, educational, or economic well-being of the state or the candidate's or  
365 officeholder's community; [or]

366 (m) for one or more guests of an officeholder or candidate to attend an event, meeting,  
367 or conference described in this Subsection (2)~~[-]~~; or

368 (n) to pay childcare expenses of:

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

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

371 (3) (a) The lieutenant governor shall enforce this chapter prohibiting a personal use  
372 expenditure by:

373 (i) evaluating a financial statement to identify a personal use expenditure; and

374 (ii) commencing an informal adjudicative proceeding in accordance with Title 63G,  
375 Chapter 4, Administrative Procedures Act, if the lieutenant governor has probable cause to  
376 believe a candidate or officeholder has made a personal use expenditure.

377 (b) Following the proceeding, the lieutenant governor may issue a signed order  
378 requiring a candidate or officeholder who has made a personal use expenditure to:

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

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

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