

HB0129S01 compared with HB0129

~~{deleted text}~~ shows text that was in HB0129 but was deleted in HB0129S01.

Inserted text shows text that was not in HB0129 but was inserted into HB0129S01.

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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

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 ~~{engaged}~~ 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

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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

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

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

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

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

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

(a) "Candidate" means a person who:

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

(ii) 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.

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

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

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

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

(ii) "Personal use expenditure" includes:

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

(B) a household food item or supply;

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

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

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

(F) a salary payment made to a candidate, officeholder, or a person who has not provided a bona fide service to a candidate or officeholder;

(G) a vacation;

(H) a vehicle expense;

(I) a meal expense;

(J) a travel expense;

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

(L) a satisfaction of a personal debt;

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

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

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

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

(a) for a political purpose;

(b) for candidacy for public office;

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

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

(e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

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

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

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

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- (B) for motor fuel or special fuel, as defined in Section 59-13-102;
 - (ii) a meal expense;
 - (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - (iv) a payment for a service provided by an attorney or accountant;
 - (v) a tuition payment or registration fee for participation in a meeting or conference;
 - (vi) a gift;
 - (vii) a payment for the following items in connection with an office space:
 - (A) rent;
 - (B) utilities;
 - (C) a supply; or
 - (D) furnishing;
 - (viii) a booth at a meeting or event; or
 - (ix) educational material;
 - (h) to purchase or mail informational material, a survey, or a greeting card;
 - (i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;
 - (j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;
 - (k) to pay membership dues to a national organization whose primary purpose is to address general public policy;
 - (l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community; [or]
 - (m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2)[-]; or
 - (n) to pay childcare expenses of:
 - (A) a candidate while the candidate is ~~†engaged†~~engaging in campaign activity; or
 - (B) an officeholder while the officeholder is engaging in the duties of an officeholder.†
- ‡ (3) (a) A municipality may adopt an ordinance prohibiting a personal use expenditure by a candidate with requirements that are more stringent than the requirements provided in

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Subsection (4).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1) or (2).

(c) If a municipality fails to adopt a personal use expenditure ordinance described in Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).

(4) A candidate or an officeholder may not use money deposited into a campaign account for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

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

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

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

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

(a) may require the candidate or officeholder to:

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

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

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

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

17-16-202. Definitions.

As used in this part:

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

(i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value

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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, deposit of money, or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity 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) a loan made by a county office candidate or local school board candidate deposited into the county office candidate's or local school board candidate's own campaign account; or

(vi) an in-kind contribution.

(b) "Contribution" does not include:

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

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

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

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

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

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

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

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

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

(i) any disbursement from contributions, receipts, or the separate bank account required

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under Section 17-16-6.5;

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

(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 a political purpose;

(iv) compensation paid by a 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 county office candidate's, or a local school board 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 a political purpose at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by an individual volunteering a portion or all of the individual's 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 described in Subsection (5)(a) that is given by a reporting entity to a candidate or officer in another state.

(6) "Filing entity" means:

(a) a county office candidate;

(b) a county officer;

(c) a local school board candidate;

(d) a local school board member; or

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

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

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

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

(b) receives a contribution, makes an expenditure, or gives consent for any other person

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to receive a contribution or make an expenditure to bring about the individual's nomination or election to a local school board.

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

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

(B) primarily furthers a personal interest of a county office candidate, county officer, local school board candidate, or a local school board member, or a member of a county office candidate's, county officer's, local school board candidate's, or local school board member's family; or

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

(b) "Personal use expenditure" includes:

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

(ii) a household food item or supply;

(iii) clothing, except for clothing:

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

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

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

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

(vi) a salary payment made to:

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

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

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

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- (xi) payment of an administrative, civil, or criminal penalty;
- (xii) satisfaction of a personal debt;
- (xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;
- (xiv) a membership fee for a professional or service organization; and
- (xv) a payment in excess of the fair market value of the item or service purchased.
- (c) "Personal use expenditure" does not include an expenditure made:
 - (i) for a political purpose;
 - (ii) for candidacy for county office or local school board;
 - (iii) to fulfill a duty or activity of a county officer or local school board member;
 - (iv) for a donation to a registered political party;
 - (v) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
 - (vi) to return all or a portion of a contribution to a contributor;
 - (vii) for the following items, if made in connection with the candidacy for county office or local school board, or an activity or duty of a county officer or local school board member:
 - (A) a mileage allowance at the rate established by the political subdivision that provides the mileage allowance;
 - (B) for motor fuel or special fuel, as defined in Section 59-13-102;
 - (C) a meal expense;
 - (D) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - (E) a payment for a service provided by an attorney or accountant;
 - (F) a tuition payment or registration fee for participation in a meeting or conference;
 - (G) a gift;
 - (H) a payment for rent, utilities, a supply, or furnishings, in connection with an office space;
 - (I) a booth at a meeting or event; or
 - (J) educational material;
 - (viii) to purchase or mail informational material, a survey, or a greeting card;

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(ix) for a donation to a charitable organization, as defined in Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(x) to repay a loan a county office candidate or local school board candidate makes from the candidate's personal account to the candidate's campaign account;

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

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

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

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

(xv) to pay childcare expenses of:

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

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

(10) "Political purpose" means an act done 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 or a person seeking an office at any caucus, political convention, or election.

(11) "Reporting entity":

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

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

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

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

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

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

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

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

(b) "Personal use expenditure" includes:

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

(ii) a household food item or supply;

(iii) clothing, except for clothing:

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

(B) used in the candidate's campaign;

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

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

(vi) a salary payment made to:

(A) a candidate or officeholder; or

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

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

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

(xii) a satisfaction of a personal debt;

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

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

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

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

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made:

- (a) for a political purpose;
- (b) for candidacy for public office;
- (c) to fulfill a duty or activity of an officeholder;
- (d) for a donation to a registered political party;
- (e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
- (f) to return all or a portion of a contribution to a contributor;
- (g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:
 - (i) (A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or
 - (B) for motor fuel or special fuel, as defined in Section 59-13-102;
 - (ii) a meal expense;
 - (iii) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - (iv) a payment for a service provided by an attorney or accountant;
 - (v) a tuition payment or registration fee for participation in a meeting or conference;
 - (vi) a gift;
 - (vii) a payment for the following items in connection with an office space:
 - (A) rent;
 - (B) utilities;
 - (C) a supply; or
 - (D) furnishing;
 - (viii) a booth at a meeting or event; or
 - (ix) educational material;
 - (h) to purchase or mail informational material, a survey, or a greeting card;
 - (i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;
 - (j) to repay a loan a candidate makes from the candidate's personal account to the

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candidate's campaign account;

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

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

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

(n) to pay childcare expenses of:

(A) a candidate while the candidate is ~~†engaged†~~engaging in campaign activity; or

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

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

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

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

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

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

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

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