

POLITICAL ISSUES COMMITTEE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Election Code to create an exception to the definition of a political issues committee.

Highlighted Provisions:

This bill:

► provides that a political issues committee does not include certain associations of individuals who seek to challenge a single ballot proposition, law, ordinance, or other governmental action.

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 2014, Chapters 18, 158, and 337

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:



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

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

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

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

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

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

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

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

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

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

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

48 (5) "Chief election officer" means:

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

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

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

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

57 (ii) an express, legally enforceable contract, promise, or agreement to make a gift,
58 subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or

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

90 (ii) the purpose of expressly advocating the approval or the defeat of any ballot
91 proposition.

92 (b) "Corporation" does not mean:

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

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

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

98 (10) "County political party officer" means a person whose name is required to be
99 submitted by a county political party to the lieutenant governor in accordance with Section
100 [20A-8-402](#).

101 (11) "Detailed listing" means:

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

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

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 2, Part 1,
161 Incorporation, by which a geographical area becomes legally recognized as a city or town.

162 (21) "Incorporation election" means the election authorized by Section 10-2-111 or
163 10-2-127.

164 (22) "Incorporation petition" means a petition authorized by Section 10-2-109 or
165 10-2-125.

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

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

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

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

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

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

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

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

182 (28) "Major political party" means either of the two registered political parties that

183 have the greatest number of members elected to the two houses of the Legislature.

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

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

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

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

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

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

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

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

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

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

204 (i) a party committee;

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

207 (iii) an individual;

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

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

212 (vi) a personal campaign committee.

213 (35) (a) "Political consultant" means a person who is paid by a reporting entity, or paid

214 by another person on behalf of and with the knowledge of the reporting entity, to provide
215 political advice to the reporting entity.

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

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

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

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

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

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

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

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

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

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

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

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

239 (iii) an individual;

240 (iv) individuals who are related and who make contributions from a joint checking
241 account; [or]

242 (v) a corporation, except a corporation a major purpose of which is to act as a political
243 issues committee[-]; or

244 (vi) a group of individuals who:

245 (A) associate together for the purpose of challenging a single ballot proposition, law,
246 ordinance, or other governmental action;

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

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

251 (D) do not receive funds for challenging the ballot proposition, law, ordinance, or other
252 governmental action from a person other than an individual in the group.

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

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

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

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

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

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

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

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

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

269 (39) (a) "Political issues expenditure" means any of the following when made by a
270 political issues committee or on behalf of a political issues committee by an agent of the
271 reporting entity:

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

274 (A) a ballot proposition; or

275 (B) an incorporation petition or incorporation election;

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

278 (A) a ballot proposition; or

279 (B) an incorporation petition or incorporation election;

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

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

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

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

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

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

291 (40) "Political purposes" means an act done with the intent or in a way to influence or
292 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
293 against any candidate or a person seeking a municipal or county office at any caucus, political
294 convention, or election.

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

299 (b) "Poll" does not include:

300 (i) a ballot; or

301 (ii) an interview of a focus group that is conducted, in person, by one individual, if:

302 (A) the focus group consists of more than three, and less than thirteen, individuals; and

303 (B) all individuals in the focus group are present during the interview.

304 (42) "Primary election" means any regular primary election held under the election
305 laws.

306 [~~45~~] (43) "Publicly identified class of individuals" means a group of 50 or more

307 individuals sharing a common occupation, interest, or association that contribute to a political
308 action committee or political issues committee and whose names can be obtained by contacting
309 the political action committee or political issues committee upon whose financial statement the
310 individuals are listed.

311 ~~[(43)]~~ (44) "Public office" means the office of governor, lieutenant governor, state
312 auditor, state treasurer, attorney general, state school board member, state senator, state
313 representative, speaker of the House of Representatives, president of the Senate, and the leader,
314 whip, and assistant whip of any party caucus in either house of the Legislature.

315 ~~[(44)]~~ (45) (a) "Public service assistance" means the following when given or provided
316 to an officeholder to defray the costs of functioning in a public office or aid the officeholder to
317 communicate with the officeholder's constituents:

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

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

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

323 (i) anything provided by the state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Legislative Review Note
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Office of Legislative Research and General Counsel