

1 **LOBBYIST DISCLOSURE AND REGULATION ACT**

2 **AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd Weiler**

6 House Sponsor: Mike K. McKell

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Lobbyist Disclosure and Regulation Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines and modifies terms;
- 14 ▶ makes exceptions to the definition of a lobbyist;
- 15 ▶ defines, and clarifies the difference between, an event, a tour, and a meeting;
- 16 ▶ describes reporting and other requirements relating to an event, a tour, and a

17 meeting;

- 18 ▶ provides that the lieutenant governor shall deposit a license fee collected under the
- 19 Lobbyist Disclosure and Regulation Act into the General Fund as a dedicated credit
- 20 to be used by the lieutenant governor to pay the cost of administering the license
- 21 program; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **36-11-102**, as last amended by Laws of Utah 2014, Chapter 335

30 **36-11-103**, as last amended by Laws of Utah 2014, Chapter 335

31 **36-11-304**, as repealed and reenacted by Laws of Utah 2010, Chapter 325

32

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

34 Section 1. Section **36-11-102** is amended to read:

35 **36-11-102. Definitions.**

36 As used in this chapter:

37 (1) "Aggregate daily expenditures" means:

38 (a) for a single lobbyist, principal, or government officer, the total of all expenditures
39 made within a calendar day by the lobbyist, principal, or government officer for the benefit of
40 an individual public official;

41 (b) for an expenditure made by a member of a lobbyist group, the total of all
42 expenditures made within a calendar day by every member of the lobbyist group for the benefit
43 of an individual public official; or

44 (c) for a multiclient lobbyist, the total of all expenditures made by the multiclient
45 lobbyist within a calendar day for the benefit of an individual public official, regardless of
46 whether the expenditures were attributed to different clients.

47 (2) "Approved [~~meeting or~~] activity" means a tour or a meeting [~~or activity~~]:

48 (a) (i) to which a legislator is invited; and

49 (ii) attendance at which is approved by:

50 (A) the speaker of the House of Representatives, if the public official is a member of
51 the House of Representatives; or

52 (B) the president of the Senate, if the public official is a member of the Senate; or

53 (b) (i) to which a public official who holds a position in the executive branch of state
54 government is invited; and

55 (ii) attendance at which is approved by the governor or the lieutenant governor.

56 (3) "Capitol hill complex" is as defined in Section **63C-9-102**.

57 (4) (a) "Compensation" means anything of economic value, however designated, that is

58 paid, loaned, granted, given, donated, or transferred to an individual for the provision of
59 services or ownership before any withholding required by federal or state law.

60 (b) "Compensation" includes:

61 (i) a salary or commission;

62 (ii) a bonus;

63 (iii) a benefit;

64 (iv) a contribution to a retirement program or account;

65 (v) a payment includable in gross income, as defined in Section 62, Internal Revenue
66 Code, and subject to Social Security deductions, including a payment in excess of the
67 maximum amount subject to deduction under Social Security law;

68 (vi) an amount that the individual authorizes to be deducted or reduced for salary
69 deferral or other benefits authorized by federal law; or

70 (vii) income based on an individual's ownership interest.

71 (5) "Compensation payor" means a person who pays compensation to a public official
72 in the ordinary course of business:

73 (a) because of the public official's ownership interest in the compensation payor; or

74 (b) for services rendered by the public official on behalf of the compensation payor.

75 (6) "Event" means entertainment, a performance, a contest, or a recreational activity
76 that an individual participates in or is a spectator at, including a sporting event, an artistic
77 event, a play, a movie, dancing, or singing.

78 [~~6~~] (7) "Executive action" means:

79 (a) a nomination or appointment by the governor;

80 (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule
81 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

82 (c) agency ratemaking proceedings; or

83 (d) an adjudicative proceeding of a state agency.

84 [~~7~~] (8) (a) "Expenditure" means any of the items listed in this Subsection [~~7~~] (8)(a)
85 when given to or for the benefit of a public official unless consideration of equal or greater

86 value is received:

87 (i) a purchase, payment, or distribution;

88 (ii) a loan, gift, or advance;

89 (iii) a deposit, subscription, or forbearance;

90 (iv) services or goods;

91 (v) money;

92 (vi) real property;

93 (vii) a ticket or admission to [~~a sporting, recreational, or artistic~~] an event; or

94 (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide

95 any item listed in Subsections [~~(7)~~] (8)(a)(i) through (vii).

96 (b) "Expenditure" does not mean:

97 (i) a commercially reasonable loan made in the ordinary course of business;

98 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,

99 Campaign and Financial Reporting Requirements;

100 (iii) printed informational material that is related to the performance of the recipient's

101 official duties;

102 (iv) a devise or inheritance;

103 (v) any item listed in Subsection [~~(7)~~] (8)(a) if:

104 (A) given by a relative;

105 (B) given by a compensation payor for a purpose solely unrelated to the public

106 official's position as a public official; or

107 (C) (I) the item has a value of less than \$10; and

108 (II) the aggregate daily expenditures do not exceed \$10;

109 (vi) food or beverage that is provided at an event, a tour, or a meeting to which the

110 following are invited:

111 (A) all members of the Legislature;

112 (B) all members of a standing or interim committee;

113 (C) all members of an official legislative task force;

- 114 (D) all members of a party caucus; or
- 115 (E) all members of a group described in Subsections ~~[(7)]~~ (8)(b)(vi)(A) through (D)
- 116 who are attending a meeting of a national organization whose primary purpose is addressing
- 117 general legislative policy;
- 118 (vii) food or beverage that is provided at an event, a tour, or a meeting to a public
- 119 official who is:
 - 120 (A) giving a speech at the event;
 - 121 (B) participating in a panel discussion at the event; or
 - 122 (C) presenting or receiving an award at the event;
- 123 (viii) a plaque, commendation, or award presented in public and having a cash value
- 124 not exceeding \$50;
- 125 (ix) admission to or attendance at an event, a tour, or a meeting, the primary purpose of
- 126 which is:
 - 127 (A) to solicit contributions reportable under:
 - 128 (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
 - 129 (II) 2 U.S.C. Sec. 434; or
 - 130 (B) charitable solicitation, as defined in Section 13-22-2;
 - 131 (x) travel to, lodging at, food or beverage served at, and admission to an approved
 - 132 ~~[meeting or]~~ activity;
 - 133 (xi) sponsorship of an ~~[official event or official entertainment of]~~ event that is an
 - 134 approved ~~[meeting or]~~ activity;
 - 135 (xii) notwithstanding Subsection ~~[(7)]~~ (8)(a)(vii), admission to ~~[or]~~, attendance at, or
 - 136 travel to or from an event, a tour, or a meeting:
 - 137 (A) that is sponsored by a governmental entity; or
 - 138 (B) that is widely attended and related to a governmental duty of a public official; or
 - 139 (xiii) travel to a widely attended ~~[event]~~ tour or meeting related to a governmental duty
 - 140 of a public official if that travel results in a financial savings to the state.
- 141 ~~[(8)]~~ (9) (a) "Government officer" means:

142 (i) an individual elected to a position in state or local government, when acting within
143 the government officer's official capacity; or

144 (ii) an individual appointed to or employed in a full-time position by state or local
145 government, when acting within the scope of the individual's employment.

146 (b) "Government officer" does not mean a member of the legislative branch of state
147 government.

148 [~~9~~] (10) "Immediate family" means:

149 (a) a spouse;

150 (b) a child residing in the household; or

151 (c) an individual claimed as a dependent for tax purposes.

152 [~~10~~] (11) "Legislative action" means:

153 (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or
154 proposed in either house of the Legislature or its committees or requested by a legislator; and

155 (b) the action of the governor in approving or vetoing legislation.

156 [~~11~~] (12) "Lobbying" means communicating with a public official for the purpose of
157 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

158 [~~12~~] (13) (a) "Lobbyist" means:

159 (i) an individual who is employed by a principal; or

160 (ii) an individual who contracts for economic consideration, other than reimbursement
161 for reasonable travel expenses, with a principal to lobby a public official.

162 (b) "Lobbyist" does not include:

163 (i) a government officer;

164 (ii) a member or employee of the legislative branch of state government;

165 (iii) a person, including a principal, while appearing at, or providing written comments
166 to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative
167 Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

168 (iv) a person participating on or appearing before an advisory or study task force,
169 commission, board, or committee, constituted by the Legislature or any agency or department

170 of state government, except legislative standing, appropriation, or interim committees;

171 (v) a representative of a political party;

172 (vi) an individual representing a bona fide church solely for the purpose of protecting
173 the right to practice the religious doctrines of the church, unless the individual or church makes
174 an expenditure that confers a benefit on a public official;

175 (vii) a newspaper, television station or network, radio station or network, periodical of
176 general circulation, or book publisher for the purpose of publishing news items, editorials,
177 other comments, or paid advertisements that directly or indirectly urge legislative or executive
178 action; ~~or~~

179 (viii) an individual who appears on the individual's own behalf before a committee of
180 the Legislature or an agency of the executive branch of state government solely for the purpose
181 of testifying in support of or in opposition to legislative or executive action~~[-];~~ or

182 (ix) an individual representing a business, entity, or industry, who:

183 (A) interacts with a public official, in the public official's capacity as a public official,
184 while accompanied by a registered lobbyist who is lobbying in relation to the subject of the
185 interaction or while presenting at a legislative committee meeting at the same time that the
186 registered lobbyist is attending another legislative committee meeting; and

187 (B) does not make an expenditure for, or on behalf of, a public official in relation to the
188 interaction or during the period of interaction.

189 ~~[(13)]~~ (14) "Lobbyist group" means two or more lobbyists, principals, government
190 officers, or any combination of lobbyists, principals, and officers who each contribute a portion
191 of an expenditure made to benefit a public official or member of the public official's immediate
192 family.

193 (15) "Meeting" means a gathering of people to discuss an issue, receive instruction, or
194 make a decision, including a conference, seminar, or summit.

195 ~~[(14)]~~ (16) "Multiclient lobbyist" means a single lobbyist, principal, or government
196 officer who represents two or more clients and divides the aggregate daily expenditure made to
197 benefit a public official or member of the public official's immediate family between two or

198 more of those clients.

199 ~~[(15)]~~ (17) "Principal" means a person that employs an individual to perform lobbying,
200 either as an employee or as an independent contractor.

201 ~~[(16)]~~ (18) "Public official" means:

202 (a) (i) a member of the Legislature;

203 (ii) an individual elected to a position in the executive branch of state government; or

204 (iii) an individual appointed to or employed in a position in the executive or legislative
205 branch of state government if that individual:

206 (A) occupies a policymaking position or makes purchasing or contracting decisions;

207 (B) drafts legislation or makes rules;

208 (C) determines rates or fees; or

209 (D) makes adjudicative decisions; or

210 (b) an immediate family member of a person described in Subsection ~~[(16)]~~ (18)(a).

211 ~~[(17)]~~ (19) "Public official type" means a notation to identify whether a public official
212 is:

213 (a) (i) a member of the Legislature;

214 (ii) an individual elected to a position in the executive branch of state government;

215 (iii) an individual appointed to or employed in a position in the legislative branch of
216 state government who meets the definition of public official under Subsection ~~[(16)]~~

217 (18)(a)(iii); or

218 (iv) an individual appointed to or employed in a position in the executive branch of
219 state government who meets the definition of public official under Subsection ~~[(16)]~~

220 (18)(a)(iii); or

221 (b) an immediate family member of a person described in Subsection ~~[(16)]~~ (18)(a).

222 ~~[(18)]~~ (20) "Quarterly reporting period" means the three-month period covered by each
223 financial report required under Subsection [36-11-201\(2\)\(a\)](#).

224 ~~[(19)]~~ (21) "Related person" means a person, agent, or employee who knowingly and
225 intentionally assists a lobbyist, principal, or government officer in lobbying.

226 [~~(20)~~] (22) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,
227 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or
228 spouse of any of these individuals.

229 (23) "Tour" means visiting a location, for a purpose relating to the duties of a public
230 official, and not primarily for entertainment, including:

231 (a) viewing a facility;

232 (b) viewing the sight of a natural disaster; or

233 (c) assessing a circumstance in relation to which a public official may need to take
234 action within the scope of the public official's duties.

235 Section 2. Section **36-11-103** is amended to read:

236 **36-11-103. Licensing requirements.**

237 (1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the
238 lieutenant governor by completing the form required by this section.

239 (b) The lieutenant governor shall issue licenses to qualified lobbyists.

240 (c) The lieutenant governor shall prepare a Lobbyist License Application Form that
241 includes:

242 (i) a place for the lobbyist's name and business address;

243 (ii) a place for the following information for each principal for whom the lobbyist
244 works or is hired as an independent contractor:

245 (A) the principal's name;

246 (B) the principal's business address;

247 (C) the name of each public official that the principal employs and the nature of the
248 employment with the public official; and

249 (D) the general purposes, interests, and nature of the principal;

250 (iii) a place for the name and address of the person who paid or will pay the lobbyist's
251 registration fee, if the fee is not paid by the lobbyist;

252 (iv) a place for the lobbyist to disclose:

253 (A) any elected or appointed position that the lobbyist holds in state or local

254 government, if any; and

255 (B) the name of each public official that the lobbyist employs and the nature of the
256 employment with the public official, if any;

257 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist
258 will be reimbursed; and

259 (vi) a certification to be signed by the lobbyist that certifies that the information
260 provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and
261 belief.

262 (2) Each lobbyist who obtains a license under this section shall update the licensure
263 information when the lobbyist accepts employment for lobbying by a new client.

264 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a
265 lobbying license to an applicant who:

266 (i) files an application with the lieutenant governor that contains the information
267 required by this section; and

268 (ii) pays a \$110 filing fee.

269 (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals
270 and expires on December 31 of each even-numbered year.

271 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:

272 (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107,
273 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

274 (ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304
275 within one year before the date of the lobbying license application;

276 (iii) for the term of any suspension imposed under Section 36-11-401;

277 (iv) if, within one year before the date of the lobbying license application, the applicant
278 has been found to have willingly and knowingly:

279 (A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303,
280 36-11-304, 36-11-305, or 36-11-403; or

281 (B) filed a document required by this chapter that the lobbyist knew contained

282 materially false information or omitted material information; or

283 (v) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24,
284 Lobbying Restrictions Act.

285 (b) An applicant may appeal the disapproval in accordance with the procedures
286 established by the lieutenant governor under this chapter and Title 63G, Chapter 4,
287 Administrative Procedures Act.

288 (5) The lieutenant governor shall ~~[(a) deposit \$100 of each license fee into the General~~
289 ~~Fund; and (b) deposit \$10 of]~~ deposit each license fee into the General Fund as a dedicated
290 credit to be used by the lieutenant governor to pay the cost of administering the license
291 program described in this section.

292 (6) A principal need not obtain a license under this section, but if the principal makes
293 expenditures to benefit a public official without using a lobbyist as an agent to confer those
294 benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

295 (7) Government officers need not obtain a license under this section, but shall disclose
296 any expenditures made to benefit public officials as required by Section 36-11-201.

297 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the
298 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the
299 reports by Section 36-11-201.

300 Section 3. Section 36-11-304 is amended to read:

301 **36-11-304. Expenditures over \$10 prohibited -- Exceptions.**

302 (1) Except as provided in Subsection (2), a lobbyist, principal, or government officer
303 may not make or offer to make aggregate daily expenditures that exceed \$10.

304 (2) A lobbyist, principal, or government officer may make aggregate daily expenditures
305 that exceed \$10:

306 (a) for the following items, if the expenditure is reported in accordance with Section
307 36-11-201:

308 (i) food;

309 (ii) beverage;

- 310 (iii) travel;
- 311 (iv) lodging; or
- 312 (v) admission to or attendance at a tour or meeting [~~or activity~~] that is not an approved
- 313 [~~meeting or~~] activity; or
- 314 (b) if the expenditure is made for a purpose solely unrelated to the public official's
- 315 position as a public official.