

1 **LOBBYIST DISCLOSURE ACT AMENDMENTS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: John E. Swallow**

5 AN ACT RELATING TO LOBBYIST DISCLOSURE AND REGULATION; MODIFYING
6 LICENSURE AND REPORTING REQUIREMENTS; CHANGING REGULATIONS
7 GOVERNING PENALTIES; AND MAKING TECHNICAL CORRECTIONS.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **36-11-103**, as last amended by Chapter 162, Laws of Utah 1992

11 **36-11-106**, as enacted by Chapter 280, Laws of Utah 1991

12 **36-11-201**, as last amended by Chapter 192, Laws of Utah 1995

13 **36-11-401**, as enacted by Chapter 280, Laws of Utah 1991

14 REPEALS:

15 **36-11-104**, as enacted by Chapter 280, Laws of Utah 1991

16 **36-11-105**, as enacted by Chapter 280, Laws of Utah 1991

17 **36-11-202**, as last amended by Chapter 56, Laws of Utah 1999

18 **36-11-402**, as enacted by Chapter 280, Laws of Utah 1991

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

20 Section 1. Section **36-11-103** is amended to read:

21 **36-11-103. Licensure.**

22 (1) (a) Before engaging in any lobbying [activities], a lobbyist shall [register with] obtain
23 a license from the lieutenant governor by [filing a written statement that provides:] completing the
24 form required by this section.

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

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

28 ~~[(a) his]~~ (i) a place for the lobbyist's name and business address;

29 ~~[(b)]~~ (ii) a place for the name and business address of each principal for [which he] whom
30 the lobbyist works or is hired as an independent contractor;

31 ~~[(c)]~~ (iii) a place for the name and address of the person who paid or will pay [his] the
32 lobbyist's registration fee, if the fee is not paid by the [registrant himself] lobbyist;

33 ~~[(d)]~~ (iv) a place for the lobbyist to disclose any elected or appointed position that [he]
34 the lobbyist holds in state or local government, if any; [and]

35 ~~[(e)]~~ (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist
36 will be reimbursed[-]; and

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

39 (2) Each ~~[person]~~ lobbyist who ~~[has registered in Subsection (1)]~~ obtains a license under
40 this section shall update ~~[his registration when he]~~ the licensure information when the lobbyist
41 accepts employment for lobbying by a new client.

42 ~~[(3) A principal is not required to register under Subsection (1), but if he makes~~
43 ~~expenditures to benefit a public official without using a lobbyist as an agent to confer those~~
44 ~~benefits, he shall disclose those expenditures in accordance with Sections 36-11-201 and~~
45 ~~36-11-202.]~~

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

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

50 (ii) pays a \$25 filing fee.

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

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

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

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

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

59 (iv) if, within one year before the date of the lobbying license application, the applicant
 60 has been found to have ~~h~~ **[willing] WILLINGLY** ~~h~~ and knowingly:

61 (A) violated Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304,
 62 36-11-305 or 36-11-403; or

63 (B) filed a document required by this chapter that the lobbyist knew contained materially
 64 false information or omitted material information.

65 (b) An applicant may appeal the disapproval in accordance with the procedures established
 66 by the lieutenant governor under this chapter and Title 63, Chapter 46b, Administrative Procedures
 67 Act.

68 (5) The lieutenant governor shall deposit license fees in the General Fund.

69 (6) A principal need not obtain a license under this section, but if the principal makes
 70 expenditures to benefit a public official without using a lobbyist as an agent to confer those
 71 benefits, the principal shall disclose those expenditures as required by Sections 36-11-201 and
 72 36-11-202.

73 ~~[(4)]~~ (7) Government officers need not ~~[register under Subsection (1)]~~ obtain a license
 74 under this section, but shall disclose any expenditures made to benefit public officials ~~[in~~
 75 ~~accordance with]~~ as required by Sections 36-11-201 and 36-11-202.

76 Section 2. Section **36-11-106** is amended to read:

77 **36-11-106. Reports are public documents.**

78 Any person may:

79 (1) without charge, inspect a license application or financial report filed with the lieutenant
 80 governor in accordance with this chapter; and

81 (2) make a copy of a report after paying for the actual costs of the copy.

82 Section 3. Section **36-11-201** is amended to read:

83 **36-11-201. Lobbyist, principal, and government officer financial reporting**
 84 **requirements -- Prohibition for related person to make expenditures.**

85 (1) (a) (i) Each lobbyist, principal, and government officer ~~[who makes expenditures~~
 86 ~~totaling \$50 or more to benefit public officials or members of their immediate families in any~~
 87 ~~calendar quarter of the last calendar year]~~ shall file a financial report with the lieutenant governor
 88 by 5 p.m. on January 10 of each year ~~h~~ **[f] or on the next succeeding business day if January 10**
 88a **falls**

89 **on a Saturday, Sunday, or legal holiday. The report shall be considered timely filed if**
 89a **postmarked [f] h**

90 ~~h [f] on its due date. [f] h [-Any report required shall contain:] h [disclosing]~~
 90a (ii) THE REPORT SHALL DISCLOSE h expenditures made to benefit public
 91 officials or members of their immediate families as provided in this section.
 92 ~~h [(ii) If any date specified in this Subsection (1) falls on a Saturday, Sunday, or legal holiday,~~
 93 ~~the report is due by 5 p.m. on the next business day.] h~~
 94 (iii) If the lobbyist made no expenditures since the last expenditure reported on the last
 95 report filed, the lobbyist shall file a financial report listing the amount of expenditures as "none."
 96 (b) The January 10 report shall contain:
 97 ~~[(a)] (i)~~ (i) the total amount of expenditures made to benefit public officials during the last
 98 calendar year;
 99 ~~[(b)-(i)] (i) (A)~~ (i) (A) the total travel expenditures that the lobbyist, principal, or government
 100 officer made to benefit public officials and their immediate families during the last calendar year;
 101 and
 102 ~~[(i)] (B)~~ (B) a travel expenditure statement that:
 103 ~~[(A)] (I)~~ (I) describes the destination of each trip and its purpose;
 104 ~~[(B)] (II)~~ (II) identifies the total amount of expenditures made to benefit each public official
 105 and ~~h MEMBERS OF h [his]~~ MEMBERS OF h [his] the public official's immediate family for each trip;
 106 ~~[(C)] (III)~~ (III) names all individuals that took each trip;
 107 ~~[(D)] (IV)~~ (IV) provides the name and address of the organization that sponsored each trip; and
 108 ~~[(E)] (V)~~ (V) identifies specific expenditures for food, lodging, gifts, and sidetrips;
 109 ~~[(e)] (iii)~~ (iii) for aggregate daily expenditures made to benefit public officials or their
 110 immediate families that are not reportable under Subsection (1)(b):
 111 ~~[(i)] (A)~~ (A) when the amount does not exceed \$50 per person:
 112 ~~[(A)] (I)~~ (I) the date of the expenditure;
 113 ~~[(B)] (II)~~ (II) the purpose of the expenditure; and
 114 ~~[(C)] (III)~~ (III) the total monetary worth of the benefit conferred on the public officials or
 115 members of their immediate families;
 116 ~~[(ii)] (B)~~ (B) when the amount exceeds \$50 per person:
 117 ~~[(A)] (I)~~ (I) the date, location, and purpose of the event, activity, or expenditure;
 118 ~~[(B)] (II)~~ (II) the name of the public official or member of ~~[his]~~ the public official's immediate
 119 family who attended the event or activity or received the benefit of the expenditure; and
 120 ~~[(C)] (III)~~ (III) the total monetary worth of the benefit conferred on the public official or

121 member of [~~his~~] the public official's immediate family;

122 [~~(d)~~] (iv) a list of each public official [~~that~~] who was employed by the lobbyist, principal,
123 or government officer or who performed work as an independent contractor for the lobbyist,
124 principal, or government officer during the last year that details the nature of the employment or
125 contract;

126 [~~(e)~~] (v) each bill or resolution by number and short title on behalf of which the lobbyist,
127 principal, or government officer made an expenditure to a public official for which a report is
128 required by this section, if any;

129 [~~(f)~~] (vi) a description of each executive action on behalf of which the lobbyist, principal,
130 or government officer made an expenditure to a public official for which a report is required by
131 this section, if any; and

132 [~~(g)~~] (vii) the general purposes, interests, and nature of the organization or organizations
133 that the lobbyist, principal, or government officer filing the report represents.

134 (2) A related person may not, while assisting a lobbyist, principal, or government officer
135 in lobbying, make an expenditure that benefits a public official or member of [~~his~~] the public
136 official's immediate family under circumstances which would otherwise fall within the disclosure
137 requirements of this chapter if the expenditure was made by the lobbyist, principal, or government
138 officer.

139 (3) (a) Each lobbyist, principal, and government officer who makes expenditures totaling
140 \$50 or more to benefit public officials or members of their immediate families since the date of
141 the last financial report filed shall file a financial report with the lieutenant governor by 5 p.m. on:

142 (i) the date ten days after the last day of each annual general session;

143 (ii) the date seven days before a regular general election; and

144 (iii) the date seven days after the end of a special session or veto override session.

145 (b) h (i) h If any date specified in this Subsection (3) falls on a Saturday, Sunday, or legal
145a holiday,

146 the report is due by 5 p.m. on the next business day h **OR ON THE NEXT SUCCEEDING BUSINESS**
146a **DAY, IF THE DUE DATE FALLS ON A SATURDAY, SUNDAY OR LEGAL HOLIDAY.**

146b **(ii) THE REPORT SHALL BE CONSIDERED TIMELY FILED IF IT IS POSTMARKED ON ITS DUE**
146c **DATE h** .

147 (c) Each report shall contain a listing of all expenditures made since the last expenditure
148 reported on the last report filed in the form specified in Subsection (1)(b).

149 (4) Each financial report filed by a lobbyist shall contain a certification that the
150 information provided in the report is true, accurate, and complete to the lobbyist's best knowledge
151 and belief.

152 (5) The lieutenant governor shall:

153 (a) develop preprinted forms for all statements required by this section; and

154 (b) make copies of the forms available to each person who requests them.

155 Section 4. Section **36-11-401** is amended to read:

156 **36-11-401. Penalties.**

157 (1) Any person who [~~willfully and~~] ~~h~~ **knowingly or recklessly** **WITHOUT GOOD CAUSE** ~~h~~
157a violates Section 36-11-103,

158 36-11-201, [~~36-11-202,~~] 36-11-301, 36-11-302, [~~or~~] 36-11-303, 36-11-304, 36-11-305, or

159 36-11-403, is subject to [~~any or all of~~] the following penalties:

160 ~~[(a) suspension of his lobbying license for a period of one year; and]~~

161 ~~[(b)]~~ (a) an administrative penalty of [~~not more than~~] up to \$1,000 for each violation[-];

162 and

163 (b) for each subsequent violation of that same section within 24 months, either:

164 (i) an administrative penalty of up to \$5000; or

165 (ii) suspension of the violator's lobbying license for up to one year, if the person is a

166 lobbyist.

167 (2) Any person who ~~h~~ **knowingly or recklessly** **WITHOUT GOOD CAUSE** ~~h~~ fails to file a
167a financial report required by this

168 chapter, omits material information from a license application form or financial report, or files

169 false information on a license application form or financial report, is subject to the following

170 penalties:

171 (a) an administrative penalty of up to \$1,000 for each violation; or

172 (b) suspension of the violator's lobbying license for up to one year, if the person is a

173 lobbyist.

174 (3) Any person who, ~~h~~ **knowingly or recklessly** **WITHOUT GOOD CAUSE** ~~h~~, fails to file a
174a financial report required by this

175 chapter by 5 p.m. on the date that it is due shall, in addition to the penalties, if any, imposed under

176 Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

177 ~~[(2) If]~~ (4) (a) When a lobbyist [~~has been~~] is convicted of violating Section 76-8-103,

178 [~~76-8-104,~~] 76-8-107, 76-8-108, or 76-8-303, [~~or 76-8-304 or has had a penalty imposed under~~

179 Subsection (1) more than once,] the lieutenant governor shall[-(a) permanently revoke a] suspend

180 the lobbyist's license[; or] for up to five years from the date of the conviction.

181 (b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant

182 governor shall suspend a lobbyist's license for [~~a period of up to three years; and~~] up to one year

183 from the date of conviction.

184 [~~(c)~~ impose a penalty of not less than \$1,000 nor more than \$25,000.]

185 [~~(3)~~] (5) (a) Any person who willfully and knowingly violates Section 36-11-301,
186 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

187 (b) The lieutenant governor shall [~~revoke~~] suspend the lobbyist license of any person
188 convicted under [~~this section~~] any of these sections for up to one year.

189 (c) The suspension shall be in addition to any administrative penalties ~~it~~ , **IF ANY** ~~it~~ imposed
189a by the

190 lieutenant governor under this section.

191 Section 5. **Repealer.**

192 This act repeals:

193 Section **36-11-104, Certification to the truth of reports and registrations.**

194 Section **36-11-105, Application for a license -- Fee -- Expiration -- Standards for**
195 **disapproving an application.**

196 Section **36-11-202, Filing of supplemental reports.**

197 Section **36-11-402, Reinstatement of a license.**

Legislative Review Note
as of 2-7-00 9:49 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel