

HB0246S05 compared with HB0246S04

~~deleted text~~ shows text that was in HB0246S04 but was deleted in HB0246S05.

inserted text shows text that was not in HB0246S04 but was inserted into HB0246S05.

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Senator Curtis S. Bramble proposes the following substitute bill:

GOVERNMENT ETHICS REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the chief election officer to provide notice to each filing entity, for which the chief election officer has a physical or email address, of the reporting and filing requirements described in Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;
- ▶ imposes a penalty for a state office candidate, a legislative office candidate, a school board office candidate, or a judge, who fails to report contributions or public service

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assistance, as applicable, within the time period required by law;

- ▶ provides for publication of information relating to a penalty described in the preceding paragraph;
- ▶ reduces from 30 days to three business days, under certain circumstances, the deadline by which a state office candidate, a legislative office candidate, or a school board office candidate, is required to report contributions or public service assistance;
- ▶ requires that the Legislature's website include, for each legislative officeholder, a link to the financial reports maintained on the lieutenant governor's website in relation to that legislative officeholder;
- ▶ amends provisions of the Lobbyist Disclosure and Regulation Act by:
 - increasing the license fee by \$10;
 - requiring a lobbyist to, while engaging in lobbying at the capitol hill complex, wear a name tag, issued by the lieutenant governor, that identifies the lobbyist as a lobbyist;
 - requiring a lobbyist to, at the beginning of making a communication to a public official that constitutes lobbying, inform the public official of the identity of the principal on whose behalf the lobbyist is lobbying; and
 - modifying penalty provisions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

This bill coordinates with S.B. 97, Lobbyist Disclosure and Regulation Act Amendments, by providing substantive amendments.

Utah Code Sections Affected:

AMENDS:

20A-11-103, as last amended by Laws of Utah 2012, Chapter 369

20A-11-201, as last amended by Laws of Utah 2012, Chapter 230

20A-11-301, as last amended by Laws of Utah 2012, Chapter 230

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20A-11-1301, as last amended by Laws of Utah 2012, Chapter 230

20A-12-303, as last amended by Laws of Utah 2011, Chapter 396

36-11-102, as last amended by Laws of Utah 2011, Chapter 212

36-11-103, as last amended by Laws of Utah 2010, Chapter 325

36-11-401, as last amended by Laws of Utah 2011, Chapter 389

ENACTS:

20A-11-1604, Utah Code Annotated 1953

36-11-305.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

36-11-103, as last amended by Laws of Utah 2010, Chapter 325

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

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

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by postal mail or, if requested by the filing entity, by electronic mail:

- (i) that the financial statement is due;
- (ii) of the date that the financial statement is due; and
- (iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

- (i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;
- (ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or
- (iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3) (a) A financial statement is considered timely filed if it is received by the chief

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election officer's office before the close of regular office hours on the date that it is due.

(b) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) post an electronic copy or the contents of each financial statement in a searchable format on a website established by the lieutenant governor:

(i) for campaign finance statements submitted to the lieutenant governor under the requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after the date of receipt of the campaign finance statement; or

(ii) for a summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date the summary report or interim report is electronically filed.

(5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5, elects to provide campaign finance disclosure on its own website, rather than through the lieutenant governor, the website established by the lieutenant governor shall contain a link or other access point to the municipality or county website.

(6) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 2. Section **20A-11-201** is amended to read:

20A-11-201. State office candidate -- Separate bank account for campaign funds -- No personal use -- Contribution reporting deadline -- Report other accounts.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use

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money deposited in a campaign account for:

- (i) a personal use expenditure; or
- (ii) an expenditure prohibited by law.

(2) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-204, "received" means:

(i) for a cash contribution, that the cash is given to a state office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

(b) Each state office candidate shall report to the lieutenant governor each contribution and public service assistance [~~to the lieutenant governor~~] received by the state office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received[-]; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the state office candidate is contested in a convention and the contribution or

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public service assistance is received within 30 days before the day on which the convention is held;

(B) the state office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the state office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) Except as provided in Subsection (5)(d), for each contribution or provision of public service assistance that a state office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

(i) the greater of \$50 or 15% of the amount of the contribution; or

(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the state office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

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(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 3. Section **20A-11-301** is amended to read:

20A-11-301. Legislative office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts.

(1) (a) (i) Each legislative office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A legislative office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who

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is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) and Section 20A-11-303, "received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

(b) Each legislative office candidate shall report to the lieutenant governor each contribution and public service assistance [~~to the lieutenant governor~~] received by the legislative office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received[-]; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the legislative office candidate is contested in a convention and the contribution or public service assistance is received within 30 days before the day on which the convention is held;

(B) the legislative office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(C) the legislative office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) Except as provided in Subsection (5)(d), for each contribution or provision of

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public service assistance that a legislative office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

(i) the greater of \$50 or 15% of the amount of the contribution; or

(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (5)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the legislative office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a legislative office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

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Section 4. Section **20A-11-1301** is amended to read:

20A-11-1301. School board office candidate -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts.

(1) (a) (i) Each school board office candidate shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) A school board office candidate may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with:

(a) the lieutenant governor in the case of a state school board candidate; and

(b) the county clerk, in the case of a local school board candidate.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board candidate may transfer the money in a

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campaign account in a manner that would cause the former school board candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6) and Section 20A-11-1303, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) Each school board office candidate shall report to the chief election officer each contribution and public service assistance received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 30 days after the day on which the contribution or public service assistance is received[-]; or

(ii) within three business days after the day on which the contribution or public service assistance is received, if:

(A) the school board office candidate is contested in a primary election and the contribution or public service assistance is received within 30 days before the day on which the primary election is held; or

(B) the school board office candidate is contested in a general election and the contribution or public service assistance is received within 30 days before the day on which the general election is held.

(c) Except as provided in Subsection (6)(d), for each contribution or provision of public service assistance that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) the greater of \$50 or 15% of the amount of the contribution; or

(ii) the greater of \$50 or 15% of the value of the public service assistance.

(d) A fine described in Subsection (6)(c) may not exceed the amount of the contribution or the value of the public service assistance to which the fine relates.

(e) The chief election officer shall:

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(i) deposit money received under Subsection (6)(c) into the General Fund; and
(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 5. Section **20A-11-1604** is enacted to read:

20A-11-1604. Link to financial reports on Legislature's website.

The Legislature's website shall include, for each legislative officeholder, a link to the financial reports maintained on the lieutenant governor's website in relation to that legislative officeholder.

Section 6. Section **20A-12-303** is amended to read:

20A-12-303. Separate account for campaign funds -- Reporting contributions.

(1) The judge or the judge's personal campaign committee shall deposit each

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contribution in one or more separate personal campaign accounts in a financial institution.

(2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:

(i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution received by the judge, within 30 days after the day on which the contribution is received.

(c) Except as provided in Subsection (3)(d), for each contribution that a judge fails to report within the time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to the greater of \$50 or 15% of the amount of the contribution.

(d) A fine described in Subsection (3)(c) may not exceed the amount of the contribution to which the fine relates.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (3)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:

(A) each fine imposed by the lieutenant governor against the judge;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

Section 7. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

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

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

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

(2) "Approved meeting or activity" means a meeting or activity:

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

(ii) attendance at which is approved by:

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

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

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

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

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

~~(3)~~ (4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

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

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

(vi) an amount that the individual authorizes to be deducted or reduced for salary

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deferral or other benefits authorized by federal law; or

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

~~[(4)]~~[(5)] "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

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

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

~~[(5)]~~[(6)] "Executive action" means:

(a) a nomination or appointment by the governor;

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

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

~~[(6)]~~[(7)] (a) "Expenditure" means any of the items listed in this Subsection ~~[(6)]~~[(7)](a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to a sporting, recreational, or artistic event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections ~~[(6)]~~[(7)](a)(i) through (vii).

(b) "Expenditure" does not mean:

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

(ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;

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

(iv) a devise or inheritance;

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- (v) any item listed in Subsection ~~[(6)](7)~~(a) if:
 - (A) given by a relative;
 - (B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official; or
 - (C) (I) the item has a value of less than \$10; and
 - (II) the aggregate daily expenditures do not exceed \$10;
- (vi) food or beverage that is provided at an event to which the following are invited:
 - (A) all members of the Legislature;
 - (B) all members of a standing or interim committee;
 - (C) all members of an official legislative task force;
 - (D) all members of a party caucus; or
 - (E) all members of a group described in Subsections ~~[(6)](7)~~(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;
- (vii) food or beverage that is provided at an event to a public official who is:
 - (A) giving a speech at the event;
 - (B) participating in a panel discussion at the event; or
 - (C) presenting or receiving an award at the event;
- (viii) a plaque, commendation, or award presented in public and having a cash value not exceeding \$50;
- (ix) admission to or attendance at an event, the primary purpose of which is:
 - (A) to solicit contributions reportable under:
 - (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
 - (II) 2 U.S.C. Sec. 434; or
 - (B) charitable solicitation, as defined in Section 13-22-2;
- (x) travel to, lodging at, food or beverage served at, and admission to an approved meeting or activity;
- (xi) sponsorship of an official event or official entertainment of an approved meeting or activity;
- (xii) notwithstanding Subsection ~~[(6)](7)~~(a)(vii), admission to or attendance at an event:

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(A) that is sponsored by a governmental entity; or

(B) that is widely attended and related to a governmental duty of a public official; or

(xiii) travel to a widely attended event related to a governmental duty of a public official if that travel results in a financial savings to the state.

~~[(7)]~~ [(8)] (a) "Government officer" means:

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

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

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

~~[(8)]~~ [(9)] "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

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

~~[(9)]~~ [(10)] "Legislative action" means:

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

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

~~[(10)]~~ [(11)] "Lobbying" means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

~~[(11)]~~ [(12)] (a) "Lobbyist" means:

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

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

(b) "Lobbyist" does not include:

(i) a government officer;

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

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

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(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

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

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

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action.

~~[(12)]~~ [(13)] "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

~~[(13)]~~ [(14)] "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

~~[(14)]~~ [(15)] "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

~~[(15)]~~ [(16)] "Public official" means:

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

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

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

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

(B) drafts legislation or makes rules;

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(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection ~~[(15)]~~ (16)(a).

~~[(16)]~~ (17) "Public official type" means a notation to identify whether a public official is:

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

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

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection ~~[(15)]~~ (16)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection ~~[(15)]~~ (16)(a)(iii); or

(b) an immediate family member of a person described in Subsection ~~[(15)(b)]~~ (16)(a).

~~[(17)]~~ (18) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

~~[(18)]~~ (19) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

~~[(19)]~~ (20) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

Section 8. Section 36-11-103 is amended to read:

36-11-103. Licensing requirements.

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

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

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

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

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

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- (A) the principal's name;
 - (B) the principal's business address;
 - (C) the name of each public official that the principal employs and the nature of the employment with the public official; and
 - (D) the general purposes, interests, and nature of the principal;
 - (iii) a place for the name and address of the person who paid or will pay the lobbyist's registration fee, if the fee is not paid by the lobbyist;
 - (iv) a place for the lobbyist to disclose:
 - (A) any elected or appointed position that the lobbyist holds in state or local government, if any; and
 - (B) the name of each public official that the lobbyist employs and the nature of the employment with the public official, if any;
 - (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; and
 - (vi) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.
- (2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.
- (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:
- (i) files an application with the lieutenant governor that contains the information required by this section; and
 - (ii) pays a ~~[\$100]~~ \$110 filing fee.
- (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 of each even-numbered year.
- (4) (a) The lieutenant governor may disapprove an application for a lobbying license:
- (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;
 - (ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

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

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

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

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

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

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

(5) The lieutenant governor shall:

(a) deposit \$100 of each license [fees in] fee into the General Fund[-]; and

(b) deposit \$10 of each license fee into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program described in this section.

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

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

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

Section ~~7~~9. Section **36-11-305.5** is enacted to read:

36-11-305.5. Lobbyist requirements.

(1) The lieutenant governor shall issue to each lobbyist a name tag that includes:

(a) the word "Lobbyist" in at least 18-point type; and

(b) the first and last name of the lobbyist, in at least 18-point type.

(2) Beginning on August 1, 2014, a lobbyist may not lobby a public official while the

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lobbyist is at the capitol hill complex unless the lobbyist is wearing the name tag described in Subsection (1) in plain view.

(3) A lobbyist shall, at the beginning of making a communication to a public official that constitutes lobbying, inform the public official of the identity of the principal on whose behalf the lobbyist is lobbying.

Section ~~(8)~~10. Section **36-11-401** is amended to read:

36-11-401. Penalties.

(1) Any person who [~~willfully and knowingly~~] intentionally violates Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, 36-11-308, or 36-11-403, is subject to the following penalties:

- (a) an administrative penalty of up to \$1,000 for each violation; and
- (b) for each subsequent violation of that same section within 24 months, either:
 - (i) an administrative penalty of up to \$5,000; or
 - (ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(2) Any person who [~~willfully and knowingly~~] intentionally fails to file a financial report required by this chapter, omits material information from a license application form or financial report, or files false information on a license application form or financial report, is subject to the following penalties:

- (a) an administrative penalty of up to \$1,000 for each violation; or
- (b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(3) Any person who [~~willfully and knowingly~~] intentionally fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

(4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant governor shall suspend a lobbyist's license for up to one year from the date of

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conviction.

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

(b) The lieutenant governor shall suspend the lobbyist license of any person convicted under any of these sections for up to one year.

(c) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

(d) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

(6) A lobbyist who does not complete the training required by Section 36-11-307 is subject to the following penalties:

(a) an administrative penalty of up to \$1,000 for each failure to complete the training required by Section 36-11-307; and

(b) for two or more failures to complete the training required by Section 36-11-307 within 24 months, suspension of the lobbyist's lobbying license.

(7) Nothing in this chapter creates a third-party cause of action or appeal rights.

Section ~~9~~11. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 12. Coordinating H.B. 246 with S.B. 97 -- Substantive amendments.

If this H.B. 246 and S.B. 97, Lobbyist Disclosure and Regulation Act, both pass and become law, it is the intent of the Legislature that the changes to Subsection 36-11-103(5) in S.B. 97 supercede the changes to Subsection 36-11-103(5) in this bill when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.