

1 **LOBBYIST DISCLOSURE AND REGULATION ACT**

2 **AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd Weiler**

6 House Sponsor: _____

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ describes and clarifies the difference between an event, a tour, and a meeting;
- 15 ▶ describes reporting and other requirements relating to an event, a tour and a
- 16 meeting; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **36-11-102**, as last amended by Laws of Utah 2011, Chapter 212

25 **36-11-304**, as repealed and reenacted by Laws of Utah 2010, Chapter 325

26
27 *Be it enacted by the Legislature of the state of Utah:*



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

29 **36-11-102. Definitions.**

30 As used in this chapter:

31 (1) "Aggregate daily expenditures" means:

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

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

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

41 (2) "Approved [~~meeting or~~] activity" means [a] an event, a tour, or a meeting [~~or~~
42 ~~activity~~]:

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

44 (ii) attendance at which is approved by:

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

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

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

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

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

54 (b) "Compensation" includes:

55 (i) a salary or commission;

56 (ii) a bonus;

57 (iii) a benefit;

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

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

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

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

65 (4) "Compensation payor" means a person who pays compensation to a public official
 66 in the ordinary course of business:

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

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

69 (5) "Executive action" means:

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

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

73 (c) agency ratemaking proceedings; or

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

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

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

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

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

84 (iv) services or goods;

85 (v) money;

86 (vi) real property;

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

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

- 90 (b) "Expenditure" does not mean:
- 91 (i) a commercially reasonable loan made in the ordinary course of business;
- 92 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,
- 93 Campaign and Financial Reporting Requirements;
- 94 (iii) printed informational material that is related to the performance of the recipient's
- 95 official duties;
- 96 (iv) a devise or inheritance;
- 97 (v) any item listed in Subsection [~~6~~] (7)(a) if:
- 98 (A) given by a relative;
- 99 (B) given by a compensation payor for a purpose solely unrelated to the public
- 100 official's position as a public official; or
- 101 (C) (I) the item has a value of less than \$10; and
- 102 (II) the aggregate daily expenditures do not exceed \$10;
- 103 (vi) food or beverage that is provided at an event, a tour, or a meeting to which the
- 104 following are invited:
- 105 (A) all members of the Legislature;
- 106 (B) all members of a standing or interim committee;
- 107 (C) all members of an official legislative task force;
- 108 (D) all members of a party caucus; or
- 109 (E) all members of a group described in Subsections [~~6~~] (7)(b)(vi)(A) through (D)
- 110 who are attending a meeting of a national organization whose primary purpose is addressing
- 111 general legislative policy;
- 112 (vii) food or beverage that is provided at an event, a tour, or a meeting to a public
- 113 official who is:
- 114 (A) giving a speech at the event;
- 115 (B) participating in a panel discussion at the event; or
- 116 (C) presenting or receiving an award at the event;
- 117 (viii) a plaque, commendation, or award presented in public and having a cash value
- 118 not exceeding \$50;
- 119 (ix) admission to or attendance at an event, a tour, or a meeting, the primary purpose of
- 120 which is:

- 121 (A) to solicit contributions reportable under:
- 122 (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
- 123 (II) 2 U.S.C. Sec. 434; or
- 124 (B) charitable solicitation, as defined in Section 13-22-2;
- 125 (x) travel to, lodging at, food or beverage served at, and admission to an approved
- 126 ~~[meeting or]~~ activity;
- 127 (xi) sponsorship of an ~~[official event or official entertainment of]~~ event that is an
- 128 approved ~~[meeting or]~~ activity;
- 129 (xii) notwithstanding Subsection ~~[(6)]~~ (7)(a)(vii), admission to or attendance at an
- 130 event, a tour, or a meeting:
- 131 (A) that is sponsored by a governmental entity; or
- 132 (B) that is widely attended and related to a governmental duty of a public official; or
- 133 (xiii) travel to a widely attended ~~[event]~~ tour or meeting related to a governmental duty
- 134 of a public official if that travel results in a financial savings to the state.
- 135 ~~[(7)]~~ (8) (a) "Government officer" means:
- 136 (i) an individual elected to a position in state or local government, when acting within
- 137 the government officer's official capacity; or
- 138 (ii) an individual appointed to or employed in a full-time position by state or local
- 139 government, when acting within the scope of the individual's employment.
- 140 (b) "Government officer" does not mean a member of the legislative branch of state
- 141 government.
- 142 ~~[(8)]~~ (9) "Immediate family" means:
- 143 (a) a spouse;
- 144 (b) a child residing in the household; or
- 145 (c) an individual claimed as a dependent for tax purposes.
- 146 ~~[(9)]~~ (10) "Legislative action" means:
- 147 (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or
- 148 proposed in either house of the Legislature or its committees or requested by a legislator; and
- 149 (b) the action of the governor in approving or vetoing legislation.
- 150 ~~[(10)]~~ (11) "Lobbying" means communicating with a public official for the purpose of
- 151 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

152 [~~(H)~~] (12) (a) "Lobbyist" means:

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

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

156 (b) "Lobbyist" does not include:

157 (i) a government officer;

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

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

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

165 (v) a representative of a political party;

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

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

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

176 [~~(H2)~~] (13) "Lobbyist group" means two or more lobbyists, principals, government
177 officers, or any combination of lobbyists, principals, and officers who each contribute a portion
178 of an expenditure made to benefit a public official or member of the public official's immediate
179 family.

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

182 [~~(H3)~~] (15) "Multiclient lobbyist" means a single lobbyist, principal, or government

183 officer who represents two or more clients and divides the aggregate daily expenditure made to
184 benefit a public official or member of the public official's immediate family between two or
185 more of those clients.

186 ~~[(14)]~~ (16) "Principal" means a person that employs an individual to perform lobbying,
187 either as an employee or as an independent contractor.

188 ~~[(15)]~~ (17) "Public official" means:

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

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

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

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

194 (B) drafts legislation or makes rules;

195 (C) determines rates or fees; or

196 (D) makes adjudicative decisions; or

197 (b) an immediate family member of a person described in Subsection ~~[(15)]~~ (17)(a).

198 ~~[(16)]~~ (18) "Public official type" means a notation to identify whether a public official
199 is:

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

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

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

204 ~~(17)~~(a)(iii); or

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

207 ~~(17)~~(a)(iii); or

208 (b) an immediate family member of a person described in Subsection ~~[(15)]~~ (17)(b).

209 ~~[(17)]~~ (19) "Quarterly reporting period" means the three-month period covered by each
210 financial report required under Subsection 36-11-201(2)(a).

211 ~~[(18)]~~ (20) "Related person" means a person, agent, or employee who knowingly and
212 intentionally assists a lobbyist, principal, or government officer in lobbying.

213 ~~[(19)]~~ (21) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,

214 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or
215 spouse of any of these individuals.

216 (22) "Tour" means visiting a location, for a purpose relating to the duties of a public
217 official, and not for entertainment, including:

218 (a) viewing a facility;

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

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

222 Section 2. Section 36-11-304 is amended to read:

223 **36-11-304. Expenditures over \$10 prohibited -- Exceptions.**

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

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

228 (a) for the following items, if the expenditure is reported in accordance with Section
229 36-11-201:

230 (i) food;

231 (ii) beverage;

232 (iii) travel;

233 (iv) lodging; or

234 (v) admission to or attendance at a tour or meeting [~~or activity~~] that is not an approved
235 [~~meeting or~~] activity; or

236 (b) if the expenditure is made for a purpose solely unrelated to the public official's
237 position as a public official.

Legislative Review Note
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Office of Legislative Research and General Counsel