

LOBBYING PRACTICES RESOLUTION

1999 GENERAL SESSION

STATE OF UTAH

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A RESOLUTION OF THE HOUSE OF REPRESENTATIVES ENACTING HOUSE RULES RELATING TO LOBBYISTS; DEFINING TERMS; PROHIBITING CERTAIN PRACTICES; ESTABLISHING A COMPLAINT, INVESTIGATION, AND ENFORCEMENT PROCESS FOR VIOLATIONS; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

This resolution affects legislative rules as follows:

ENACTS:

HR-38.01

HR-38.02

HR-38.03

HR-38.04

HR-38.05

HR-38.06

HR-38.07

Be it resolved by the House of Representatives of the state of Utah:

Section 1. **HR-38.01** is enacted to read:

HR-38.01. Definitions.

As used in this House Rule:

(1) (a) "Government official" means:

(i) an individual elected to a position in state or local government when acting within his official capacity; and

(ii) an individual appointed to or employed in a full-time or part-time position by state or local government when acting within the scope of employment or within his official capacity.

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

(2) "Lobbyist" has the meaning identified in Subsections 36-11-102(9)(a) and (b).

(3) (a) "Volunteer lobbyist" means a person not registered as a lobbyist who engages in lobbying within the meaning of Subsection 36-11-102(8).

(b) "Volunteer lobbyist" does not mean an individual who appears on the individual's own behalf to engage in lobbying within the meaning of Subsection 36-11-102(8).

Section 2. **HR-38.02** is enacted to read:

HR-38.02. Lobbyist Code of Ethics.

A lobbyist, volunteer lobbyist, or government official may not:

(1) attempt to influence any legislator, elected or appointed state official, state employee, or legislative employee by means of deceit or by threat of violence or economic or political reprisal against any person or property, with intent by doing so to alter or affect the legislator's, elected or appointed state official's, state employee's, or legislative employee's decision, vote, opinion, or action concerning any matter that is to be considered or performed by him or the agency or body of which he is a member;

(2) knowingly provide false information to any legislator, elected or appointed state official, state employee, or legislative employee as to any material fact pertaining to any legislation;

(3) knowingly omit, conceal, or falsify in any manner information required by the lobbyist registration and lobbyist disclosure reports;

(4) participate in committee assignments or leadership races of the House of Representatives;

(5) cause or influence the introduction of any bill or amendment for the purpose of afterwards becoming employed to secure its passage or defeat;

(6) misappropriate or misuse legislative office supplies;

(7) use legislative reproduction or facsimile machines without paying for that use;

(8) enter or use a legislator's, elected or appointed state official's, state employee's, or

legislative employee's office, phone, computer, or parking space without explicit permission;

(9) attempt to remove or remove any document from any legislator's or legislative employee's office, desk, file cabinet, reproduction machine, facsimile machine, or any other place without explicit permission;

(10) engage in sexually harassing behavior or behavior violative of the Utah Legislature's sexual harassment policy towards legislators or employees of the Legislature;

(11) offer employment to any legislator or legislative employee that impairs the legislator's or legislative employee's independence of judgement as to their official duties;

(12) offer employment that would require or induce a legislator or legislative employee to disclose records classified as private, protected, or controlled;

(13) use or disclose for personal financial gain any records classified as private, protected, or controlled that were obtained from a legislator or legislative employee or conspire with any person for that purpose; or

(14) induce or seek to induce any legislator or legislative employee into committing a violation of any provision of this house rule.

Section 3. **HR-38.03** is enacted to read:

HR-38.03. List of Lobbyists and Clients.

On the first day of each annual general legislative session, the first day of each special session, and on February 15, the Chief Clerk of the House shall inform house members about how to obtain a current list of registered lobbyists and their clients.

Section 4. **HR-38.04** is enacted to read:

HR-38.04. Enforcement; Written Complaint.

(1) To initiate an ethics complaint against a lobbyist, volunteer lobbyist, or government official who has violated the Lobbyist Code of Ethics established in HR-38.02, three legislators shall file a written complaint with the Speaker of the House, the House minority leader, and the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint.

(2) The written complaint shall contain:

(a) the name and address of each of the three Representatives who are filing the complaint;

(b) the name of the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint;

(c) the nature of the alleged violation, citing specifically to the provisions of HR-38.02 that the lobbyist, volunteer lobbyist, or government official is alleged to have violated;

(d) all documents that support the complaint as an attachment to it; and

(e) any facts alleged to support the complaint.

(3) (a) Any complaint filed under this rule is a protected record under Title 63, Chapter 2, Government Records Access and Management Act, until referred to the House Management Committee for action, because disclosure of the information in the complaint would constitute a clearly unwarranted invasion of personal privacy whose disclosure is not in the public interest.

(b) Any complaint filed under this rule that is dismissed by the Speaker and minority leader is a protected record under Title 63, Chapter 2, Government Records Access and Management Act, because disclosure of the information in the complaint would constitute a clearly unwarranted invasion of personal privacy whose disclosure is not in the public interest.

Section 5. **HR-38.05** is enacted to read:

HR-38.05. Enforcement; Speaker Review; Minority Leader Review.

(1) (a) After receiving the complaint, the Speaker shall meet with the legislators who filed the complaint, the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint, and any other persons who have relevant information about the complaint.

(b) In that meeting, the Speaker may choose to meet with those persons together or separately.

(2) (a) After the meeting the Speaker shall inform the minority leader that the Speaker recommends that:

(i) the complaint be dismissed;

(ii) the lobbyist, volunteer lobbyist, or government official be privately chastised and the complaint be dismissed; or

(iii) the House Management Committee be convened to hear the complaint.

(b) (i) After receipt of the Speaker's recommendation, the minority leader shall meet with

the legislators who filed the complaint, the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint, and any other persons who have relevant information about the complaint.

(ii) In that meeting, the minority leader may choose to meet with those persons together or separately.

(c) After the meeting, the minority leader shall prepare a letter informing the Speaker that the minority leader:

(i) concurs in the Speaker's recommendation for disposition of the complaint; or

(ii) does not concur in the Speaker's recommendation for disposition of the complaint.

(d) If the minority leader concurs in the Speaker's recommendation, the Speaker shall implement the decision.

(e) If the minority leader does not concur in the Speaker's recommendation, the Speaker shall, within 30 days after having received the written complaint, convene the House Management Committee to hear the complaint.

Section 6. **HR-38.06** is enacted to read:

HR-38.06. Enforcement; Hearing; Staff.

(1) If the Speaker must convene the House Management Committee, the Speaker shall, after consultation with the House minority leader, schedule a House Management Committee meeting to adjudicate the complaint.

(2) (a) The committee must comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings, including the procedures and requirements for closing a meeting.

(b) The Office of Legislative Research and General Counsel shall staff the committee.

(3) (a) At the hearing, the committee shall review the complaint.

(b) The committee may allow the legislators who filed the complaint to address and be questioned by the committee.

(c) The committee shall provide the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint with the opportunity to address and be questioned by the committee.

(d) The committee may allow other persons with information relevant to the complaint to address and be questioned by the committee.

(e) (i) The complainants, the lobbyist, volunteer lobbyist, or government official, and any witness appearing before the committee may have legal counsel present.

(ii) That counsel may privately advise their client about the client's legal rights when specifically requested to do so by their client, but may not address the committee, ask questions of any party or witness, or engage in oral arguments with the committee.

(iii) If counsel fails to abide by any of these rules, the committee may exclude the counsel from the meeting.

Section 7. **HR-38.07** is enacted to read:

HR-38.07. Enforcement; Penalty.

(1) If the committee determines by a preponderance of the evidence that the lobbyist, volunteer lobbyist, or government official has violated one or more provisions of HR-38.02, the committee may impose any sanction against the lobbyist, volunteer lobbyist, or government official that is not forbidden by the United States or Utah constitution.

(2) Appropriate sanctions include, but are not limited to, any, all, or some combination of the following:

(a) prohibiting the lobbyist, volunteer lobbyist, or government official from access to some or all of the legislative area of the Capitol for a period of time; and

(b) recommending an adjudicative proceeding be filed with the lieutenant governor against the lobbyist under Title 36, Chapter 11, Part 4, Penalties and Statutory Construction.

Section 8. **Effective date.**

This resolution takes effect upon approval by a constitutional majority vote of all members of the House of Representatives.