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LOBBYING PRACTICES RESOLUTION

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Susan J. Koehn

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) "Government officer" has the meaning identified in Subsection 36-11-102(4)(a).
- (2) "Lobbying" has the meaning identified in Subsection 36-11-102(8).
- (3) "Lobbyist" has the meaning identified in Subsections 36-11-102(9)(a) and (b).
- (4) "Person engaging in lobbying" means a lobbyist or government officer.

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

28 **HR-38.02. Lobbyist Code of Ethics.**29 A person engaging in lobbying may not:30 (1) attempt to influence any legislator, elected or appointed state official, state employee,
31 or legislative employee by means of deceit or by threat of violence or economic or political reprisal
32 against any person or property, with intent by doing so to alter or affect the legislator's, elected or
33 appointed state official's, state employee's, or legislative employee's decision, vote, opinion, or
34 action concerning any matter that is to be considered or performed by him or the agency or body
35 of which he is a member;36 (2) knowingly provide false information to any legislator, elected or appointed state
37 official, state employee, or legislative employee as to any material fact pertaining to any
38 legislation;39 (3) knowingly omit, conceal, or falsify in any manner information required by the lobbyist
40 registration and lobbyist disclosure reports;41 (4) participate in committee assignments or leadership races of the House;42 (5) cause or influence the introduction of any bill or amendment for the purpose of
43 afterwards becoming employed to secure its passage or defeat;44 (6) misappropriate or misuse state office supplies;45 (7) use state reproduction or facsimile machines without paying for that use;46 (8) enter or use a legislator's, elected or appointed state official's, state employee's, or
47 legislative employee's office, phone, computer, or parking space without explicit permission;48 (9) attempt to remove or remove any document from any legislator's or legislative
49 employee's office, desk, file cabinet, reproduction machine, facsimile machine, or any other place
50 without explicit permission;51 (10) engage in sexually harassing behavior or behavior violative of the Utah Legislature's
52 sexual harassment policy towards legislators or employees of the Legislature;53 (11) offer employment to any legislator or legislative employee that impairs the legislator's
54 or employee's independence of judgement as to their official duties;55 (12) offer employment that would require or induce a legislator or legislative employee
56 to disclose controlled information;57 (13) use or disclose any controlled information obtained from a legislator or legislative
58 employee for personal financial gain or conspire with any person for that purpose; or

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

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

62 **HR-38.03. List of Lobbyists and Clients.**

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

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

67 **HR-38.04. Enforcement -- Written Complaint.**

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

72 (2) The confidential written complaint shall contain:

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

74 (b) the name of the lobbyist who is the subject of the complaint;

75 (c) the nature of the alleged violation, citing specifically to the provisions of HR-38.02 that
76 the lobbyist is alleged to have violated;

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

78 (e) any facts alleged to support the complaint.

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

80 **HR-38.05. Enforcement -- Speaker Review.**

81 (1) After receiving the confidential complaint, the Speaker shall meet informally, either
82 separately or collectively, with the legislators who filed the complaint, the lobbyist who is the
83 subject of the complaint, and any other persons who have relevant information about the
84 complaint.

85 (2) After meeting with the legislators, lobbyists, and witnesses, the Speaker shall:

86 (a) dismiss the complaint;

87 (b) privately chastise the lobbyist and dismiss the complaint; or

88 (c) within 30 days after receiving the written complaint, convene the House Management
89 Committee to hear the complaint.

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

91 **HR-38.06. Enforcement -- Hearing.**

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

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

98 (b) The Office of Legislative Research and General Counsel is staff to the committee.

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

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

102 (c) The committee shall provide the lobbyist who is the subject of the complaint with the
103 opportunity to address and be questioned by the committee.

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

106 (e) (i) The complainants, the lobbyist, and any witness appearing before the committee
107 may have legal counsel present.

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

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

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

114 **HR-38.07. Enforcement -- Penalty.**

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

118 (2) Appropriate sanctions include any, all, or some combination of the following:

119 (a) prohibiting the lobbyist from access to some or all of the legislative area of the capitol
120 for a period of time; and

121 (b) recommending an adjudicative proceeding be filed with the lieutenant governor against
122 the lobbyist under Title 36, Chapter 11, Part 4 of the Utah Code.

123 Section 8. **Effective date.**

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

Legislative Review Note
as of 1-25-99 8:59 AM

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

Office of Legislative Research and General Counsel