

**Representative Susan J. Koehn** proposes to substitute the following bill:

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**LOBBYING PRACTICES RESOLUTION**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Susan J. Koehn**

Ron Bigelow

David L. Hogue

Thomas V. Hatch

Jeff Alexander

Martin R. Stephens

Greg J. Curtis

David Ure

Kevin S. Garn

Jordan Tanner

Patrice M. Arent

Ralph Becker

Brad King

David M. Jones

Neal B. Hendrickson

Gary F. Cox

Perry L. Buckner

David L. Gladwell

Gerry A. Adair

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.**

28 As used in this House Rule:

29 (1) "Government officer" has the meaning identified in Subsection 36-11-102(4)(a).

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

31 (3) "Person engaging in lobbying" means a lobbyist or government officer.

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

33 **HR-38.02. Lobbyist Code of Ethics.**

34 A person engaging in lobbying may not:

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

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

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

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

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

49 (6) misappropriate or misuse state office supplies;

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

51 (8) enter or use a legislator's, elected or appointed state official's, state employee's, or  
52 legislative employee's office, phone, computer, or parking space without explicit permission;

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

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

58 (11) offer employment to any legislator or legislative employee that impairs the legislator's

59 or employee's independence of judgement as to their official duties;

60 (12) offer employment that would require or induce a legislator or legislative employee  
61 to disclose controlled information;

62 (13) use or disclose any controlled information obtained from a legislator or legislative  
63 employee for personal financial gain or conspire with any person for that purpose; or

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

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

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

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

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

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

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

76 (2) The written complaint shall contain:

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

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

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

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

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

83 (3) (a) Any complaint filed under this rule is a protected record under Title 63, Chapter  
84 2, Government Records Access and Management Act, until referred to the House Management  
85 Committee for action, because disclosure of the information in the complaint would constitute a  
86 clearly unwarranted invasion of personal privacy whose disclosure is not in the public interest.

87 (b) Any complaint filed under this rule that is dismissed by the Speaker and minority  
88 leader is a protected record under Title 63, Chapter 2, Government Records Access and

89 Management Act, because disclosure of the information in the complaint would constitute a clearly

90 unwarranted invasion of personal privacy whose disclosure is not in the public interest.

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

92 **HR-38.05. Enforcement -- Speaker Review -- Minority Leader Review.**

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

96 (b) In that meeting, the Speaker may choose to meet with the legislators, lobbyist, and  
97 witnesses together or separately.

98 (2) (a) After meeting with the legislators, lobbyist, and witnesses, the Speaker shall inform  
99 the minority leader that the Speaker recommends that:

100 (i) the complaint be dismissed;

101 (ii) the lobbyist be privately chastised and the complaint be dismissed; or

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

103 (b) (i) After receipt of the Speaker's recommendation, the minority leader shall meet with  
104 the legislators who filed the complaint, the lobbyist who is the subject of the complaint, and any  
105 other persons who have relevant information about the complaint.

106 (ii) In that meeting, the minority leader may choose to meet with the legislators, lobbyist,  
107 and witnesses together or separately.

108 (c) After meeting with the legislators, lobbyist, and witnesses, the minority leader shall  
109 prepare a letter informing the Speaker that the minority leader:

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

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

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

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

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

118 **HR-38.06. Enforcement -- Hearing.**

119 (1) If the Speaker must convene the House Management Committee, the Speaker shall,  
120 after consultation with the House minority leader, schedule a House Management Committee

121 meeting to adjudicate the complaint.

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

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

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

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

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

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

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

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

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

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

141 **HR-38.07. Enforcement -- Penalty.**

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

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

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

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

151 Section 8. **Effective date.**

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