

**LOBBYIST AND OTHERS LIMITATIONS ON
GIFT GIVING TO LEGISLATORS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Ron Bigelow

This act modifies sections governing gifts to legislators. This act defines what is and what is not a "gift." The act prohibits gifts to legislators during annual general sessions, veto override sessions, and special sessions. This act directs the executive director of the Department of Administrative Services to dispose of donated gifts. This act makes technical corrections.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

36-11-304, as enacted by Chapter 192, Laws of Utah 1995

63A-1-105, as enacted by Chapter 212, Laws of Utah 1993

ENACTS:

36-11-501, Utah Code Annotated 1953

36-11-502, Utah Code Annotated 1953

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

Section 1. Section **36-11-304** is amended to read:

36-11-304. Offering gift or loan -- When prohibited.

(1) A lobbyist, principal, or government officer may not offer to or give any public official or member of his immediate family any gift or loan if the public official has been, or is now, or in the near future may be involved in any governmental action directly affecting the donor or lender.

(2) (a) Subsection (1) does not apply to the following:

[~~(a)~~] (i) an occasional nonpecuniary gift, having a value of not in excess of \$50 per individual;

[~~(b)~~] (ii) an award publicly presented in recognition of public services;

28 ~~[(c)]~~ (iii) any bona fide loan made in the ordinary course of business; ~~[(or)]~~
 29 ~~[(d)]~~ (iv) gifts to a relative~~[-];~~ or
 30 (v) gifts to legislators when the Legislature is convened in annual general session, veto
 31 override session, or special session.

32 (b) Gifts to legislators when the Legislature is convened in annual general session, veto
 33 override session, or special session are governed by Chapter 11, Part 5, Gifts to Legislators During
 34 Legislative Sessions.

35 (3) For the purposes of this section:

36 (a) "Gift" means a transfer of real or tangible personal property for less than fair and
 37 adequate consideration. It does not include plaques, commendations, or awards.

38 (b) "Tangible personal property" does not include the admission price for events, meals,
 39 recreation, outings, or functions, and is intended to be interpreted consistent with the meaning of
 40 tangible personal property found in the Utah Constitution Article XIII.

41 Section 2. Section **36-11-501** is enacted to read:

42 **Part 5. Gifts to Legislators During Legislative Sessions**

43 **36-11-501. Definitions.**

44 As used in this part:

45 (1) (a) "Gift" means a transfer of real or personal property for less than fair and adequate
 46 consideration.

47 (b) "Gift" does not mean:

48 (i) a campaign contribution properly received and reported as required by Title 20A,
 49 Chapter 11, Campaign and Financial Reporting Requirements;

50 (ii) compensation, food, beverages, entertainment, transportation, lodging, or other goods
 51 or services extended to a legislator by the legislator's private employer or by the state;

52 (iii) a usual and customary commercial loan made in the ordinary course of business,
 53 without regard to the recipient's status as a legislator, by a person or institution authorized by law
 54 to engage in the business of making loans;

55 (iv) unsolicited awards of appreciation, honorary degrees, or bona fide awards in
 56 recognition of public service in the form of a certificate, plaque, trophy, desk item, wall memento,
 57 or commemorative token of less than \$50 value provided that the item is not in a form that can be
 58 readily converted to cash;

59 (v) informational, educational, or promotional items, such as books, articles, periodicals,
60 other written materials, audiotapes, videotapes, or other forms of communication with no
61 substantial resale value and related to the performance of the recipient's official duties;

62 (vi) a subscription to a newspaper, news magazine, or other news publication or legislative
63 periodical;

64 (vii) anything received from a person related by blood or marriage or a member of the
65 legislator's household unless the donor is acting as an agent or intermediary for another person not
66 so related;

67 (viii) any devise or inheritance from a person related by blood or marriage or a member
68 of the legislator's household unless the donor is acting as an agent or intermediary for another
69 person not so related;

70 (ix) a gift that is not used and, no later than 30 days after receipt, is:

71 (A) returned to the donor;

72 (B) donated to a public body or to the Department of Administrative Services; or

73 (C) delivered to a bona fide nonprofit charitable or educational organization and is not
74 claimed as a charitable contribution for federal income tax purposes;

75 (x) a gift or gifts from one member of the Legislature to another member of the
76 Legislature;

77 (xi) anything for which the legislator pays or gives full value;

78 (xii) any service spontaneously extended to a legislator in an emergency situation;

79 (xiii) items received from a bona fide charitable, professional, educational, or business
80 organization to which the legislator belongs as a dues-paying member, if the items are given to all
81 members of the organization without regard to individual members' status or position held outside
82 of the organization and if the dues paid are not inconsequential when compared to the items
83 received;

84 (xiv) funeral flowers or memorials to a church or a nonprofit organization given to honor
85 a legislator, a person related to the legislator by blood or marriage, or to a member of the
86 legislator's household;

87 (xv) unsolicited flowers, plants, and floral arrangements valued at less than \$50;

88 (xvi) items valued at less than \$50 for a wedding or 25th or 50th wedding anniversary
89 celebration;

90 (xvii) exchanges of approximately equal value on holidays, birthdays, or special occasions;

91 (xviii) tickets to charitable, cultural, educational, or political events, but not to athletic or
92 entertainment events, held within Utah when customarily provided as a courtesy to all public
93 officials of similar rank in the event's jurisdiction;

94 (xix) honoraria, when in an amount representing a reasonable expense reimbursement for
95 participation in the event and when normal and customary from the organization or group giving
96 the honoraria;

97 (xx) the cost of admission, attendance, or participation, and of food and beverages
98 consumed, at an event to which all members of the Legislature are invited;

99 (xxi) the cost paid, reimbursed, raised, or obtained by or for a public official for attendance
100 or participation, and for food and beverages consumed at, or in connection with, and activities
101 offered at or in connection with, and funds, goods, and services provided at or in connection with,
102 or for conducting, conventions, conferences, or other events sponsored or coordinated by multistate
103 or national organizations of, or including, state governments, state legislatures, or state legislators;

104 (xxii) travel and accommodations provided to a public official when the public official is
105 representing the state in an official or ceremonial capacity, and travel and accommodations
106 provided to a legislator, persons related to the legislator by blood or marriage, and members of the
107 legislator's household, for which prior approval has been obtained from the president or speaker,
108 when the legislator is representing the Legislature, or a chamber of the Legislature, in an official
109 or ceremonial capacity; or

110 (xxiii) the cost of admittance, attendance, or participation, and of food and beverages
111 consumed, at events to which an individual legislator is invited and for which the legislator
112 receives prior approval from a majority of the Legislative Management Committee.

113 (2) "Immediate family" means a spouse and children or other persons living in the public
114 official's household.

115 Section 3. Section **36-11-502** is enacted to read:

116 **36-11-502. Gifts during legislative sessions prohibited.**

117 A lobbyist, principal, or government officer may not offer or give a gift to any legislator
118 or member of the legislator's immediate family when the Legislature is convened in an annual
119 general session, veto override session, or special session.

120 Section 4. Section **63A-1-105** is amended to read:

- 121 **63A-1-105. Appointment of executive director -- Compensation.**
122 (1) The governor shall:
123 (a) appoint the executive director with the advice and consent of the Senate; and
124 (b) establish the executive director's salary within the salary range fixed by the Legislature
125 in Title 67, Chapter 22, State Officer Compensation.
126 (2) The executive director shall serve at the pleasure of the governor.
127 (3) For items donated to the state under Section 36-11-501, the executive director shall
128 dispose of each donated item by either:
129 (a) assigning the item to a state agency for its official use; or
130 (b) selling the item at a public sale and depositing the net proceeds from the sale into the
131 General Fund.

Legislative Review Note
as of 12-15-00 9:58 AM

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

Office of Legislative Research and General Counsel