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**GIFTS TO LEGISLATORS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ralph Becker**

**This act modifies the Lobbyist Disclosure and Regulation Act. This act defines gifts and prohibits legislators from receiving gifts and repeals the existing section governing gifts.**

**This act makes technical corrections.**

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

AMENDS:

**36-11-103**, as last amended by Chapter 338, Laws of Utah 2000

**36-11-401**, as last amended by Chapter 338, Laws of Utah 2000

**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

REPEALS:

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

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

Section 1. Section **36-11-103** is amended to read:

**36-11-103. Licensing requirements.**

(1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the lieutenant governor by completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a Lobbyist License Application Form that includes:

(i) a place for the lobbyist's name and business address;

(ii) a place for the name and business address of each principal for whom the lobbyist

28 works or is hired as an independent contractor;

29 (iii) a place for the name and address of the person who paid or will pay the lobbyist's  
30 registration fee, if the fee is not paid by the lobbyist;

31 (iv) a place for the lobbyist to disclose any elected or appointed position that the lobbyist  
32 holds in state or local government, if any;

33 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will  
34 be reimbursed; and

35 (vi) a certification to be signed by the lobbyist that certifies that the information provided  
36 in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

37 (2) Each lobbyist who obtains a license under this section shall update the licensure  
38 information when the lobbyist accepts employment for lobbying by a new client.

39 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying  
40 license to an applicant who:

41 (i) files an application with the lieutenant governor that contains the information required  
42 by this section; and

43 (ii) pays a \$25 filing fee.

44 (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals  
45 and expires on December 31 of each even-numbered year.

46 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:

47 (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108,  
48 or 76-8-303 within five years before the date of the lobbying license application;

49 (ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within  
50 one year before the date of the lobbying license application;

51 (iii) for the term of any suspension imposed under Section 36-11-401; or

52 (iv) if, within one year before the date of the lobbying license application, the applicant  
53 has been found to have willingly and knowingly:

54 (A) violated Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303,  
55 ~~[36-11-304,]~~ 36-11-305, ~~[or]~~ 36-11-403, or 36-11-502; or

56 (B) filed a document required by this chapter that the lobbyist knew contained materially  
57 false information or omitted material information.

58 (b) An applicant may appeal the disapproval in accordance with the procedures established

59 by the lieutenant governor under this chapter and Title 63, Chapter 46b, Administrative Procedures  
60 Act.

61 (5) The lieutenant governor shall deposit license fees in the General Fund.

62 (6) A principal need not obtain a license under this section, but if the principal makes  
63 expenditures to benefit a public official without using a lobbyist as an agent to confer those  
64 benefits, the principal shall disclose those expenditures as required by Sections 36-11-201.

65 (7) Government officers need not obtain a license under this section, but shall disclose any  
66 expenditures made to benefit public officials as required by Sections 36-11-201.

67 Section 2. Section **36-11-401** is amended to read:

68 **36-11-401. Penalties.**

69 (1) Any person who willfully and knowingly violates Section 36-11-103, 36-11-201,  
70 36-11-301, 36-11-302, 36-11-303, [~~36-11-304~~], 36-11-305, [~~or~~] 36-11-403, or 36-11-502 is subject  
71 to the following penalties:

72 (a) an administrative penalty of up to \$1,000 for each violation; and

73 (b) for each subsequent violation of that same section within 24 months, either:

74 (i) an administrative penalty of up to \$5,000; or

75 (ii) suspension of the violator's lobbying license for up to one year, if the person is a  
76 lobbyist.

77 (2) Any person who willfully and knowingly fails to file a financial report required by this  
78 chapter, omits material information from a license application form or financial report, or files  
79 false information on a license application form or financial report, is subject to the following  
80 penalties:

81 (a) an administrative penalty of up to \$1,000 for each violation; or

82 (b) suspension of the violator's lobbying license for up to one year, if the person is a  
83 lobbyist.

84 (3) Any person who willfully and knowingly fails to file a financial report required by this  
85 chapter on the date that it is due shall, in addition to the penalties, if any, imposed under  
86 Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

87 (4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108,  
88 or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from  
89 the date of the conviction.

90 (b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant  
91 governor shall suspend a lobbyist's license for up to one year from the date of conviction.

92 (5) (a) Any person who willfully and knowingly violates Section 36-11-301, 36-11-302,  
93 or 36-11-303 is guilty of a class B misdemeanor.

94 (b) The lieutenant governor shall suspend the lobbyist license of any person convicted  
95 under any of these sections for up to one year.

96 (c) The suspension shall be in addition to any administrative penalties imposed by the  
97 lieutenant governor under this section.

98 (d) Any person with evidence of a possible violation of this chapter may submit that  
99 evidence to the lieutenant governor for investigation and resolution.

100 (6) Nothing in this chapter creates a third-party cause of action or appeal rights.

101 Section 3. Section **36-11-501** is enacted to read:

102 **Part 5. Gifts to Legislators**

103 **36-11-501. Definitions.**

104 As used in this section:

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

107 (b) "Gift" does not mean:

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

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

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

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

119 (v) informational, educational, or promotional items, such as books, articles, periodicals,  
120 other written materials, audiotapes, videotapes, or other forms of communication with no

- 121 substantial resale value and related to the performance of the recipient's official duties;
- 122 (vi) a subscription to a newspaper, news magazine, or other news publication or legislative  
123 periodical;
- 124 (vii) anything received from a person related by blood or marriage or a member of the  
125 legislator's household unless the donor is acting as an agent or intermediary for another person not  
126 so related;
- 127 (viii) any devise or inheritance from a person related by blood or marriage or a member  
128 of the legislator's household unless the donor is acting as an agent or intermediary for another  
129 person not so related;
- 130 (ix) a gift that is not used and, no later than 30 days after receipt, is:
- 131 (A) returned to the donor;
- 132 (B) donated to a public body or to the Department of Administrative Services; or
- 133 (C) delivered to a bona fide nonprofit charitable or educational organization and is not  
134 claimed as a charitable contribution for federal income tax purposes;
- 135 (x) a gift or gifts from one member of the Legislature to another member of the  
136 Legislature;
- 137 (xi) anything for which the legislator pays or gives full value;
- 138 (xii) any service spontaneously extended to a legislator in an emergency situation;
- 139 (xiii) items received from a bona fide charitable, professional, educational, or business  
140 organization to which the legislator belongs as a dues-paying member, if the items are given to all  
141 members of the organization without regard to individual members' status or positions held outside  
142 of the organization and if the dues paid are not inconsequential when compared to the items  
143 received;
- 144 (xiv) funeral flowers or memorials to a church or a nonprofit organization given to honor  
145 a legislator, a person related to the legislator by blood or marriage, or to a member of the  
146 legislator's household;
- 147 (xv) unsolicited flowers, plants, and floral arrangements valued at less than \$50;
- 148 (xvi) items valued at less than \$50 for a wedding or twenty-fifth or fiftieth wedding  
149 anniversary celebration;
- 150 (xvii) tickets to charitable, cultural, educational, or political events, but not to athletic or  
151 entertainment events, held within Utah when customarily provided as a courtesy to all public

152 officials of similar rank in the event's jurisdiction;

153 (xviii) the cost of admission, attendance, or participation, and of food and beverages  
154 consumed, at an event to which all members of the Legislature or all members of a legislative  
155 committee, a legislative subcommittee, a task force, a caucus, House leadership, Senate leadership,  
156 House majority leadership, House minority leadership, Senate majority leadership, Senate minority  
157 leadership, or legislators from the same area or region are invited;

158 (xix) the cost paid, reimbursed, raised, or obtained by or for a public official for attendance  
159 or participation, and for food and beverages consumed at, or in connection with, and activities  
160 offered at or in connection with, and funds, goods, and services provided at or in connection with,  
161 or for conducting, conventions, conferences, or other events sponsored or coordinated by multistate  
162 or national organizations of, or including, state governments, state legislatures, or state legislators;  
163 or

164 (xx) travel and accommodations provided to a public official when the public official is  
165 representing the state in an official or ceremonial capacity, and travel and accommodations  
166 provided to a legislator, persons related to the legislator by blood or marriage, and members of the  
167 legislator's household, for which prior approval has been obtained from the president or speaker,  
168 when the legislator is representing the Legislature, or a chamber of the Legislature, in an official  
169 or ceremonial capacity.

170 (2) "Immediate family" means:

171 (a) the public official's spouse; and

172 (b) children or other persons living in the public official's household.

173 Section 4. Section **36-11-502** is enacted to read:

174 **36-11-502. Gifts prohibited.**

175 A lobbyist, principal, or government officer may not offer or give a gift valued at more than  
176 \$5 to any public official or member of the public official's immediate family.

177 Section 5. Section **63A-1-105** is amended to read:

178 **63A-1-105. Appointment of executive director -- Compensation.**

179 (1) The governor shall:

180 (a) appoint the executive director with the advice and consent of the Senate; and

181 (b) establish the executive director's salary within the salary range fixed by the Legislature

182 in Title 67, Chapter 22, State Officer Compensation.

- 183 (2) The executive director shall serve at the pleasure of the governor.
- 184 (3) For items donated to the state under Section 36-11-501, the executive director shall
- 185 dispose of each donated item by either:
- 186 (a) assigning the item to a state agency for its official use; or
- 187 (b) selling the item at a public sale and depositing the net proceeds from the sale into the
- 188 General Fund.

189 Section 6. **Repealer.**

190 This act repeals:

191 Section **36-11-304, Offering gift or loan -- When prohibited.**

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**Legislative Review Note**  
**as of 12-26-00 9:04 AM**

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

**Office of Legislative Research and General Counsel**