

**Senator Scott K. Jenkins** proposes the following substitute bill:

**GOVERNMENT LAW CHANGES**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Sheldon L. Killpack**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions in the Lobbyist Disclosure and Regulation Act, the Utah Public Officers' and Employees' Ethics Act, and the campaign finance requirements of the Election Code.

**Highlighted Provisions:**

This bill:

- ▶ requires that officeholders file annual campaign finance summary reports;
- ▶ provides and modifies definitions;
- ▶ removes reporting exemptions from certain travel, lodging, and meal expense reimbursements;
- ▶ clarifies disclosure requirements for public officials, elected officials of local governments, and certain state employees under the Lobbyist Disclosure and Regulation Act;
- ▶ requires that financial expenditure reports be filed on a quarterly schedule;
- ▶ requires that lobbyists file quarterly expense reports even when no expenses have been made;
- ▶ requires that lobbyists and principals be subject to reporting requirements until they cease lobbying;



- 26           ▶ requires that lobbyists, principals, and government officials report all expenses
- 27 made to benefit a public official;
- 28           ▶ establishes conflict of interest standards for lobbyists;
- 29           ▶ modifies a provision in the Public Officers' and Employees' Ethics Act; and
- 30           ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           This bill coordinates with H.B. 62, Lobbyist Disclosure Technical Amendments, by  
35 providing superseding amendments.

36 **Utah Code Sections Affected:**

37 AMENDS:

38           **20A-11-401**, as last amended by Chapter 355, Laws of Utah 1997

39           **36-11-102**, as last amended by Chapter 13, Laws of Utah 1998

40           **36-11-201**, as last amended by Chapter 27, Laws of Utah 2003

41           **67-16-5**, as last amended by Chapter 25, Laws of Utah 2005

42 ENACTS:

43           **36-11-306**, Utah Code Annotated 1953



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

46           Section 1. Section **20A-11-401** is amended to read:

47           **20A-11-401. Officeholder financial reporting requirements -- Year-end summary**  
48 **report.**

49           (1) (a) Each officeholder shall file a summary report by January 5 of [~~the year after the~~  
50 ~~regular general election~~] each year.

51           (b) An officeholder that is required to file a summary report both as an officeholder and  
52 as a candidate for office under the requirements of this chapter may file a single summary  
53 report as a candidate and an officeholder, provided that the combined report meets the  
54 requirements of:

55           (i) this section; and

56           (ii) the section that provides the requirements for the summary report that must be filed

57 by the officeholder in the officeholder's capacity of a candidate for office.

58 (2) (a) Each summary report shall include the following information as of December 31  
59 of the last [~~regular general election~~] year:

60 (i) the net balance of the last summary report, if any;

61 (ii) a single figure equal to the total amount of receipts received since the last summary  
62 report, if any;

63 (iii) a single figure equal to the total amount of expenditures made since the last  
64 summary report, if any;

65 [~~(ii)~~] (iv) a detailed listing of each contribution and public service assistance received  
66 since the last summary report;

67 [~~(iii)~~] (v) for each nonmonetary contribution, the fair market value of the contribution;

68 [~~(iv)~~] (vi) a detailed listing of each expenditure made since the last summary report;

69 [~~(v)~~] (vii) for each nonmonetary expenditure, the fair market value of the expenditure;

70 and

71 [~~(vi)~~] (viii) a net balance for the year consisting of the net balance from the last  
72 summary report plus all receipts minus all expenditures.

73 (b) (i) For all individual contributions or public service assistance of \$50 or less, a  
74 single aggregate figure may be reported without separate detailed listings.

75 (ii) Two or more contributions from the same source that have an aggregate total of  
76 more than \$50 may not be reported in the aggregate, but shall be reported separately.

77 (c) In preparing the report, all receipts and expenditures shall be reported as of  
78 December 31 of the [~~last regular general election~~] previous calendar year.

79 (3) The summary report shall contain a paragraph signed by the officeholder certifying  
80 that, to the best of the officeholder's knowledge, all receipts and all expenditures have been  
81 reported as of December 31 of the [~~last regular general election~~] previous calendar year and  
82 that there are no bills or obligations outstanding and unpaid except as set forth in that report.

83 Section 2. Section **36-11-102** is amended to read:

84 **36-11-102. Definitions.**

85 As used in this chapter:

86 [~~(1) "Aggregate daily expenditures" means the total expenditures made within a~~  
87 ~~24-hour period.~~]

88           ~~[(2)]~~ (1) "Executive action" means:

89           (a) nominations and appointments by the governor;

90           (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of any

91 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

92           (c) agency ratemaking proceedings.

93           ~~[(3)]~~ (2) (a) "Expenditure" means any of the items listed in this Subsection when given

94 to or for the benefit of a public official or ~~[his]~~ the public official's immediate family:

95           (i) a purchase, payment, distribution, loan, gift, advance, deposit, subscription,

96 forbearance, services, or goods, unless consideration of equal or greater value is received; and

97           (ii) a contract, promise, or agreement, whether or not legally enforceable, to provide

98 any of the items listed in Subsection ~~[(3)]~~ (2)(a)(i).

99           (b) "Expenditure" does not mean:

100           (i) a commercially reasonable loan made in the ordinary course of business;

101           (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,

102 ~~[Corrupt Practices in Elections]~~ Campaign and Financial Reporting Requirements;

103           (iii) printed informational material that is related to the performance of the recipient's

104 official duties;

105           (iv) a devise or inheritance;

106           (v) any item listed in Subsection ~~[(3)]~~ (2)(a) if given by a relative;

107           ~~[(vi) a modest item of food or refreshment such as a beverage or pastry offered other~~

108 ~~than as part of a meal;]~~

109           ~~[(vii)]~~ (vi) a greeting card or other item of little intrinsic value that is intended solely

110 for presentation; or

111           ~~[(viii) plaques, commendations, or awards; or]~~

112           ~~[(ix) reimbursement of reasonable expenses for or providing travel, lodging, or meals~~

113 ~~to a public official when:]~~

114           ~~[(A) those expenses are directly related to the public official's attendance and~~

115 ~~participation in a regularly scheduled meeting of an organization, association, or group; and]~~

116           ~~[(B) that organization, association, or group pays or provides those expenses.]~~

117           (vii) a plaque, commendation, or award that:

118           (A) does not consist of cash;

- 119 (B) is presented publicly; and
- 120 (C) does not exceed \$50 in value;
- 121 ~~[(4)]~~ (3) (a) "Government officer" means:
- 122 (i) an individual elected to a position in state or local government, when acting within
- 123 his official capacity; or
- 124 (ii) an individual appointed to or employed in a full-time position by state or local
- 125 government, when acting within the scope of his employment.
- 126 (b) "Government officer" does not mean a member of the legislative branch of state
- 127 government.
- 128 ~~[(5)]~~ (4) "Immediate family" means a spouse, a child residing in the household, or an
- 129 individual claimed as a dependent for tax purposes.
- 130 ~~[(6)]~~ (5) "Interested person" means an individual defined in Subsections ~~[(9)]~~ (8)(b)(ii)
- 131 and ~~[(viii)]~~ (vii).
- 132 ~~[(7)]~~ (6) "Legislative action" means:
- 133 (a) bills, resolutions, amendments, nominations, and other matters pending or proposed
- 134 in either house of the Legislature or its committees or requested by a legislator; and
- 135 (b) the action of the governor in approving or vetoing legislation.
- 136 ~~[(8)]~~ (7) "Lobbying" means communicating with a public official for the purpose of
- 137 influencing the passage, defeat, amendment, or postponement of legislative or executive action.
- 138 ~~[(9)]~~ (8) (a) "Lobbyist" means:
- 139 (i) an individual who is employed by a principal; or
- 140 (ii) an individual who contracts for economic consideration, other than reimbursement
- 141 for reasonable travel expenses, with a principal to lobby a public official.
- 142 (b) "Lobbyist" does not include:
- 143 ~~[(i) a public official while acting in his official capacity on matters pertaining to his~~
- 144 ~~office or a state employee while acting within the scope of his employment;]~~
- 145 (i) a member or employee of the legislative branch of government;
- 146 (ii) any person appearing at, or providing written comments to, a hearing conducted in
- 147 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act or Title 63,
- 148 Chapter 46b, Administrative Procedures Act;
- 149 (iii) any person participating on or appearing before an advisory or study task force,

150 commission, board, or committee, constituted by the Legislature or any agency or department  
151 of state government, except legislative standing, appropriation, or interim committees;

152 (iv) a representative of a political party;

153 (v) an individual representing a bona fide church solely for the purpose of protecting  
154 the right to practice the religious doctrines of the church unless the individual or church makes  
155 an expenditure that confers a benefit on a public official;

156 (vi) a newspaper, television station or network, radio station or network, periodical of  
157 general circulation, or book publisher for the purpose of publishing news items, editorials,  
158 other comments, or paid advertisements that directly or indirectly urge legislative or executive  
159 action; or

160 [~~(vii)~~] ~~an elected official of a local government while acting within the scope of his~~  
161 ~~official capacity on matters pertaining to his office or an employee of a local government while~~  
162 ~~acting within the scope of his employment; or]~~

163 [~~(viii)~~] (vii) an individual who appears on his own behalf before a committee of the  
164 Legislature or an executive branch agency solely for the purpose of testifying in support of or  
165 in opposition to legislative or executive action.

166 [~~(10)~~] (9) "Person" includes individuals, bodies politic and corporate, partnerships,  
167 associations, and companies.

168 [~~(11)~~] (10) "Principal" means a person who employs [~~a lobbyist~~] an individual to  
169 perform lobbying either as an employee or as an independent contractor.

170 [~~(12)~~] (11) "Public official" means:

171 (a) a member of the Legislature;

172 (b) an individual elected to a position in the executive branch; or

173 (c) an individual appointed to or employed in the executive or legislative branch if that  
174 individual:

175 (i) occupies a policymaking position or makes purchasing or contracting decisions;

176 (ii) drafts legislation or makes rules;

177 (iii) determines rates or fees; or

178 (iv) makes adjudicative decisions.

179 (12) "Quarterly reporting period" means the three-month period covered by each  
180 financial report required under Subsection 36-11-201(2)(a)(i).

181 (13) "Related person" means any person, or agent or employee of a person, who  
 182 knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

183 (14) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister,  
 184 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse  
 185 of any of these individuals.

186 Section 3. Section **36-11-201** is amended to read:

187 **36-11-201. Lobbyist, principal, and government officer financial reporting**  
 188 **requirements -- Prohibition for related person to make expenditures.**

189 (1) As used in this section, "public official type" means a notation to identify whether  
 190 the public official is:

191 (a) a member of the Legislature;

192 (b) an individual elected to a position in the executive branch;

193 (c) an individual appointed to or employed in a position in the legislative branch who  
 194 meets the definition of public official in Section 36-11-102; or

195 (d) an individual appointed to or employed in a position in the executive branch who  
 196 meets the definition of public official in Section 36-11-102.

197 (2) (a) (i) Each lobbyist, principal, and government officer that makes an expenditure,  
 198 as defined by Section 36-11-102, during any of the following quarterly reporting periods shall  
 199 file ~~[an annual]~~ a quarterly financial report with the lieutenant governor on ~~[January 10 of each~~  
 200 ~~year or]~~ the following dates:

201 (A) April 10, for the period of January 1 through March 31;

202 (B) July 10, for the period of April 1 through June 30;

203 (C) October 10, for the period of July 1 through September 30; and

204 (D) January 10, for the period of October 1 through December 31 of the previous year.

205 (ii) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday,  
 206 the report shall be considered to be due on the next succeeding business day ~~[if January 10 falls~~  
 207 ~~on a Saturday, Sunday, or legal holiday].~~

208 (iii) The report shall be considered timely filed if postmarked on its due date.

209 ~~[(ii)]~~ (iv) The report shall disclose expenditures made to benefit public officials or  
 210 members of their immediate families as provided in this section.

211 ~~[(iii)–If]~~ (v) (A) Notwithstanding Subsection (2)(a)(i), a lobbyist shall file a quarterly

212 financial report whether or not the lobbyist has made [no expenditures since the last  
213 expenditure reported on the last report filed,] an expenditure during the quarterly reporting  
214 period.

215 (B) If the lobbyist has made no expenditures during the quarterly reporting period, the  
216 lobbyist shall file a quarterly financial report listing the amount of expenditures as "none."

217 (C) The report shall be filed in accordance with the dates specified under Subsections  
218 (2)(a)(i) and (ii).

219 (b) The ~~[January 10]~~ quarterly financial report shall contain:

220 (i) (A) the total amount of expenditures made to benefit public officials during the last  
221 ~~[calendar year]~~ quarterly reporting period; and

222 (B) the total amount of expenditures made to benefit public officials by public official  
223 type during the last ~~[calendar year]~~ quarterly reporting period;

224 (ii) (A) the total travel expenditures that the lobbyist, principal, or government officer  
225 made to benefit public officials and their immediate families during the ~~[last calendar year,~~  
226 ~~and]~~ quarterly reporting period;

227 (B) the total travel expenditures that the lobbyist, principal, or government officer  
228 made to benefit public officials and their immediate families, by public official type, during the  
229 last ~~[calendar year]~~ quarterly reporting period; and

230 (C) a travel expenditure statement for the last quarterly reporting period that:

231 (I) describes the destination of each trip and its purpose;

232 (II) identifies the total amount of expenditures made to benefit each public official and  
233 members of the public official's immediate family for each trip;

234 (III) names all individuals that took each trip;

235 (IV) identifies the public official type to which each public official belongs;

236 (V) provides the name and address of the organization that sponsored each trip; and

237 (VI) identifies specific expenditures for food, lodging, gifts, and sidetrips;

238 (iii) for ~~[aggregate daily expenditures]~~ each expenditure made during the quarterly  
239 reporting period to benefit a public ~~[officials or members of their]~~ official or a member of the  
240 public official's immediate [families] family that ~~[are]~~ is not otherwise reportable under  
241 Subsection (2)(b)(ii):

242 ~~[(A) when the amount does not exceed \$50 per person:]~~



243           ~~[(I) the date of the expenditure;]~~  
244           ~~[(H) the purpose of the expenditure;]~~  
245           ~~[(HH) the public official type to which each public official belongs; and]~~  
246           ~~[(IV) the total monetary worth of the benefit conferred on the public officials or~~  
247 ~~members of their immediate families;]~~  
248           ~~[(B) when the amount exceeds \$50 per person:]~~  
249           ~~[(F)]~~ (A) the date, location, and purpose of the event, activity, or expenditure;  
250           ~~[(H)]~~ (B) the name of the public official or member of the public official's immediate  
251 family who attended the event or activity or received the benefit of the expenditure;  
252           ~~[(HH)]~~ (C) the public official type to which each public official belongs; and  
253           ~~[(IV)]~~ (D) the total monetary worth of the benefit conferred on the public official or  
254 member of the public official's immediate family by the lobbyist, principal, or government  
255 officer filing the financial report;  
256           (iv) a list of each public official who was employed by the lobbyist, principal, or  
257 government officer or who performed work as an independent contractor for the lobbyist,  
258 principal, or government officer during the last year that details the nature of the employment  
259 or contract;  
260           (v) each bill or resolution by number and short title on behalf of which the lobbyist,  
261 principal, or government officer made an expenditure to a public official for which a report is  
262 required by this section, if any;  
263           (vi) a description of each executive action on behalf of which the lobbyist, principal, or  
264 government officer made an expenditure to a public official for which a report is required by  
265 this section, if any; and  
266           (vii) the general purposes, interests, and nature of the organization or organizations that  
267 the lobbyist, principal, or government officer filing the report represents.  
268           (c) In reporting expenditures under this section for events to which all legislators are  
269 invited, each lobbyist, principal, and government officer:  
270           (i) may not divide the cost of the event by the number of legislators who actually attend  
271 the event and report that cost as an expenditure made to those legislators;  
272           (ii) shall divide the total cost by the total number of Utah legislators and others invited  
273 to the event and report that quotient as the amount expended for each legislator who actually

274 attended the event; and

275 (iii) may not report any expenditure as made to a legislator who did not attend the  
276 event.

277 [~~(3) (a) As used in this Subsection (3):~~]

278 [~~(i) "Lobbyist group" means two or more lobbyists, principals, government officers,  
279 and any combination of lobbyists, principals, and officers who each contribute a portion of an  
280 expenditure made to benefit a public official or member of his immediate family.]~~]

281 [~~(ii) "Multiclient lobbyist" means a single lobbyist, principal, or government officer  
282 who represents two or more clients and divides the aggregate daily expenditure made to benefit  
283 a public official or member of his immediate family between two or more of those clients.]~~]

284 [~~(b) When a lobbyist group combines to make aggregate daily expenditures to benefit  
285 public officials or members of their immediate families, and the total aggregate daily  
286 expenditure of the lobbyist group exceeds \$50 per person, each member of the lobbyist group  
287 shall disclose on the reports required by this section:]~~]

288 [~~(i) the date, location, and purpose of the event, activity, or expenditure;]~~]

289 [~~(ii) the name of the public official or member of the public official's immediate family  
290 who attended the event or activity or received the benefit of the expenditure;]~~]

291 [~~(iii) the public official type to which each public official belongs;]~~]

292 [~~(iv) the total monetary worth of the benefit conferred on the public official or member  
293 of the public official's immediate family by the lobbyist group and the total monetary worth of  
294 the benefit conferred upon the public official or member of the public official's immediate  
295 family by the lobbyist, principal, or government officer filing the report;]~~]

296 [~~(v) each bill or resolution by number and short title on behalf of which the lobbyist,  
297 principal, or government officer made an expenditure to a public official for which a report is  
298 required by this section, if any;]~~]

299 [~~(vi) a description of each executive action on behalf of which the lobbyist, principal,  
300 or government officer made an expenditure to a public official for which a report is required by  
301 this section, if any; and]~~]

302 [~~(vii) the general purposes, interests, and nature of the organization or organizations  
303 that the lobbyist, principal, or government officer filing the report represents.]~~]

304 [~~(c) When a multiclient lobbyist makes aggregate daily expenditures to benefit public~~]

305 officials or members of their immediate families, and the sum of the total aggregate daily  
306 expenditure for all of the lobbyist's clients exceeds \$50 for a public official or family member,  
307 the multicient lobbyist shall, for each client, disclose on the reports required by this section:]

308 [~~(i) the date, location, and purpose of the event, activity, or expenditure;~~]

309 [~~(ii) the name of the public official or member of the public official's immediate family  
310 who attended the event or activity or received the benefit of the expenditure;~~]

311 [~~(iii) the public official type to which each public official belongs;~~]

312 [~~(iv) the total monetary worth of the benefit conferred on the public official or member  
313 of the public official's immediate family by all clients and; the total monetary worth of the  
314 benefit conferred on the public official or member of the public official's immediate family by  
315 the client upon whose behalf the report is filed;~~]

316 [~~(v) each bill or resolution by number and short title on behalf of which the lobbyist,  
317 principal, or government officer made an expenditure to a public official for which a report is  
318 required by this section, if any;~~]

319 [~~(vi) a description of each executive action on behalf of which the lobbyist, principal,  
320 or government officer made an expenditure to a public official for which a report is required by  
321 this section, if any; and]~~

322 [~~(vii) the general purposes, interests, and nature of the organization or organizations  
323 that the lobbyist, principal, or government officer filing the report represents.]~~

324 [~~(4)~~] (3) A related person may not, while assisting a lobbyist, principal, or government  
325 officer in lobbying, make an expenditure that benefits a public official or member of the public  
326 official's immediate family under circumstances which would otherwise fall within the  
327 disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal,  
328 or government officer.

329 [(5)(a) Each lobbyist, principal, and government officer who makes expenditures  
330 totaling \$50 or more to benefit public officials or members of their immediate families since  
331 the date of the last financial report filed shall file a financial report with the lieutenant governor  
332 on:]

333 [(i) the date ten days after the last day of each annual general session;]

334 [(ii) the date seven days before a regular general election; and]

335 [(iii) the date seven days after the end of a special session or veto override session.]

336 ~~[(b) (i) If any date specified in this Subsection (5) falls on a Saturday, Sunday, or legal~~  
337 ~~holiday, the report is due on the next business day or on the next succeeding business day, if~~  
338 ~~the due date falls on a Saturday, Sunday, or legal holiday.]~~

339 ~~[(ii) The report shall be considered timely filed if it is postmarked on its due date.]~~

340 ~~[(c) Each report shall contain a listing of all expenditures made since the last~~  
341 ~~expenditure reported on the last report filed in the form specified in Subsection (2)(b) and,~~  
342 ~~when applicable, Subsection (3).]~~

343 ~~[(d) In preparing each financial report, all expenditures shall be reported as of five days~~  
344 ~~before the required filing date of the report.]~~

345 ~~[(6)] (4) Each quarterly financial report filed by a lobbyist shall contain a certification~~  
346 ~~that the information provided in the report is true, accurate, and complete to the lobbyist's best~~  
347 ~~knowledge and belief.~~

348 ~~[(7)] (5) The lieutenant governor shall:~~

349 ~~(a) develop preprinted suggested forms for all statements required by this section; and~~

350 ~~(b) make copies of the forms available to each person who requests them.~~

351 ~~[(8)] (6) (a) Each lobbyist and each principal shall continue to file the quarterly~~  
352 ~~financial reports required by this section [~~until the lobbyist or principal has filed the report due~~~~  
353 ~~on the first January 10 that is more than 12 months after the date that the lobbyist surrenders;~~  
354 ~~until the lobbyist or principal files a statement with the lieutenant governor that:~~

355 ~~(i) states:~~

356 ~~(A) for a lobbyist, that the lobbyist has ceased lobbying activities; or~~

357 ~~(B) for a principal, that the principal no longer employs an individual as a lobbyist;~~

358 ~~(ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's~~  
359 ~~license;~~

360 ~~(iii) contains a listing, as required by this section, of all previously unreported~~  
361 ~~expenditures that have been made through the date of the statement; and~~

362 ~~(iv) states that the lobbyist or principal will not make any additional expense that is not~~  
363 ~~disclosed on the statement unless the lobbyist or principal complies with the disclosure and~~  
364 ~~licensing requirements of this chapter.~~

365 ~~(b) A lobbyist that fails to renew[;] the lobbyist's license or otherwise ceases to be~~  
366 ~~licensed[;] shall be required to file quarterly reports until the lobbyist files the statement~~

367 required by Subsection (6)(a).

368 Section 4. Section **36-11-306** is enacted to read:

369 **36-11-306. Conflicts of interest.**

370 (1) As used in this section, "conflict of interest" means a circumstance where:

371 (a) the representation of one principal or client will be directly adverse to another  
372 principal or client; or

373 (b) there is a significant risk that the representation of one or more principals or clients  
374 will be materially limited by the lobbyist's responsibilities to:

375 (i) another principal or client;

376 (ii) a former principal or client;

377 (iii) a third person; or

378 (iv) a personal interest of the lobbyist.

379 (2) Except as provided in Subsection (3), a lobbyist may not represent a principal or  
380 client if the representation involves a conflict of interest.

381 (3) Notwithstanding the existence of a conflict of interest, a lobbyist may represent a  
382 principal or client if:

383 (a) the lobbyist reasonably believes that the lobbyist will be able to provide competent  
384 and diligent representation to each principal or client;

385 (b) the representation is not otherwise prohibited by law;

386 (c) the representation does not require the lobbyist to assert a position on behalf of one  
387 principal or client that is opposed to the position of another principal or client represented by  
388 the lobbyist involving the same legislative issue; and

389 (d) each affected principal or client gives informed consent to the conflict of interest in  
390 writing.

391 Section 5. Section **67-16-5** is amended to read:

392 **67-16-5. Accepting gift, compensation, or loan -- When prohibited.**

393 (1) As used in this section, "economic benefit tantamount to a gift" includes:

394 (a) a loan at an interest rate that is substantially lower than the commercial rate then  
395 currently prevalent for similar loans; and

396 (b) compensation received for private services rendered at a rate substantially  
397 exceeding the fair market value of the services.

398 (2) It is an offense for a public officer[;] or public employee, [~~or legislator;~~] under  
399 circumstances not amounting to a violation of Section 63-56-1001 or 76-8-105, to knowingly  
400 receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of  
401 substantial value or a substantial economic benefit tantamount to a gift:

402 (a) that would tend improperly to influence a reasonable person in the person's position  
403 to depart from the faithful and impartial discharge of the person's public duties;

404 (b) that the person knows or that a reasonable person in that position should know  
405 under the circumstances is primarily for the purpose of rewarding the person for official action  
406 taken; or

407 (c) if he recently has been, is now, or in the near future may be involved in any  
408 governmental action directly affecting the donor or lender, unless a disclosure of the gift,  
409 compensation, or loan and other relevant information has been made in the manner provided in  
410 Section 67-16-6.

411 (3) Subsection (2) does not apply to:

412 (a) an occasional nonpecuniary gift, having a value of not in excess of \$50;

413 (b) an award publicly presented in recognition of public services;

414 (c) any bona fide loan made in the ordinary course of business; or

415 (d) a political campaign contribution.

416 Section 6. **Coordinating S.B. 246 with H.B. 62 -- Superseding amendments.**

417 If this S.B. 246 and H.B. 62, Lobbyist Disclosure Technical Amendments, both pass, it  
418 is the intent of the Legislature that the amendments to Section 36-11-201 in this bill supersede  
419 the amendments to Section 36-11-201 in H.B. 62 when the Office of Legislative Research and  
420 General Counsel prepares the Utah Code database for publication.