

**Representative Michael E. Noel** proposes the following substitute bill:

**LOBBYIST DISCLOSURE AND REGULATION ACT**

**AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor: Michael E. Noel

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**LONG TITLE**

**General Description:**

This bill amends Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ describes and clarifies the difference between an event, a tour, and a meeting;
- ▶ describes reporting and other requirements relating to an event, a tour, and a meeting;
- ▶ provides that a lobbyist licensing fee shall be deposited as a dedicated credit to be used by the lieutenant governor to administer the lobbyist licensing program; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



26 **36-11-102**, as last amended by Laws of Utah 2011, Chapter 212

27 **36-11-103**, as last amended by Laws of Utah 2010, Chapter 325

28 **36-11-304**, as repealed and reenacted by Laws of Utah 2010, Chapter 325

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

31 Section 1. Section **36-11-102** is amended to read:

32 **36-11-102. Definitions.**

33 As used in this chapter:

34 (1) "Aggregate daily expenditures" means:

35 (a) for a single lobbyist, principal, or government officer, the total of all expenditures  
36 made within a calendar day by the lobbyist, principal, or government officer for the benefit of  
37 an individual public official;

38 (b) for an expenditure made by a member of a lobbyist group, the total of all  
39 expenditures made within a calendar day by every member of the lobbyist group for the benefit  
40 of an individual public official; or

41 (c) for a multiclient lobbyist, the total of all expenditures made by the multiclient  
42 lobbyist within a calendar day for the benefit of an individual public official, regardless of  
43 whether the expenditures were attributed to different clients.

44 (2) "Approved [~~meeting or~~] activity" means a tour or a meeting [~~or activity~~]:

45 (a) (i) to which a legislator is invited; and

46 (ii) attendance at which is approved by:

47 (A) the speaker of the House of Representatives, if the public official is a member of  
48 the House of Representatives; or

49 (B) the president of the Senate, if the public official is a member of the Senate; or

50 (b) (i) to which a public official who holds a position in the executive branch of state  
51 government is invited; and

52 (ii) attendance at which is approved by the governor or the lieutenant governor.

53 (3) (a) "Compensation" means anything of economic value, however designated, that is  
54 paid, loaned, granted, given, donated, or transferred to an individual for the provision of  
55 services or ownership before any withholding required by federal or state law.

56 (b) "Compensation" includes:

- 57 (i) a salary or commission;
- 58 (ii) a bonus;
- 59 (iii) a benefit;
- 60 (iv) a contribution to a retirement program or account;
- 61 (v) a payment includable in gross income, as defined in Section 62, Internal Revenue
- 62 Code, and subject to Social Security deductions, including a payment in excess of the
- 63 maximum amount subject to deduction under Social Security law;
- 64 (vi) an amount that the individual authorizes to be deducted or reduced for salary
- 65 deferral or other benefits authorized by federal law; or
- 66 (vii) income based on an individual's ownership interest.
- 67 (4) "Compensation payor" means a person who pays compensation to a public official
- 68 in the ordinary course of business:
- 69 (a) because of the public official's ownership interest in the compensation payor; or
- 70 (b) for services rendered by the public official on behalf of the compensation payor.
- 71 (5) "Executive action" means:
- 72 (a) a nomination or appointment by the governor;
- 73 (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule
- 74 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 75 (c) agency ratemaking proceedings; or
- 76 (d) an adjudicative proceeding of a state agency.
- 77 (6) "Event" means entertainment, a performance, a contest, or a recreational activity
- 78 that an individual participates in or is a spectator at, including a sporting event, an artistic
- 79 event, a play, a movie, dancing, or singing.
- 80 [~~6~~] (7) (a) "Expenditure" means any of the items listed in this Subsection [~~6~~] (7)(a)
- 81 when given to or for the benefit of a public official unless consideration of equal or greater
- 82 value is received:
- 83 (i) a purchase, payment, or distribution;
- 84 (ii) a loan, gift, or advance;
- 85 (iii) a deposit, subscription, or forbearance;
- 86 (iv) services or goods;
- 87 (v) money;

- 88 (vi) real property;
- 89 (vii) a ticket or admission to [~~a sporting, recreational, or artistic~~] an event; or
- 90 (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide
- 91 any item listed in Subsections [~~(6)~~] (7)(a)(i) through (vii).
- 92 (b) "Expenditure" does not mean:
- 93 (i) a commercially reasonable loan made in the ordinary course of business;
- 94 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,
- 95 Campaign and Financial Reporting Requirements;
- 96 (iii) printed informational material that is related to the performance of the recipient's
- 97 official duties;
- 98 (iv) a devise or inheritance;
- 99 (v) any item listed in Subsection [~~(6)~~] (7)(a) if:
- 100 (A) given by a relative;
- 101 (B) given by a compensation payor for a purpose solely unrelated to the public
- 102 official's position as a public official; or
- 103 (C) (I) the item has a value of less than \$10; and
- 104 (II) the aggregate daily expenditures do not exceed \$10;
- 105 (vi) food or beverage that is provided at an event, a tour, or a meeting to which the
- 106 following are invited:
- 107 (A) all members of the Legislature;
- 108 (B) all members of a standing or interim committee;
- 109 (C) all members of an official legislative task force;
- 110 (D) all members of a party caucus; or
- 111 (E) all members of a group described in Subsections [~~(6)~~] (7)(b)(vi)(A) through (D)
- 112 who are attending a meeting of a national organization whose primary purpose is addressing
- 113 general legislative policy;
- 114 (vii) food or beverage that is provided at an event, a tour, or a meeting to a public
- 115 official who is:
- 116 (A) giving a speech at the event;
- 117 (B) participating in a panel discussion at the event; or
- 118 (C) presenting or receiving an award at the event;

119 (viii) a plaque, commendation, or award presented in public and having a cash value  
120 not exceeding \$50;

121 (ix) admission to or attendance at an event, a tour, or a meeting, the primary purpose of  
122 which is:

123 (A) to solicit contributions reportable under:

124 (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or

125 (II) 2 U.S.C. Sec. 434; or

126 (B) charitable solicitation, as defined in Section 13-22-2;

127 (x) travel to, lodging at, food or beverage served at, and admission to an approved  
128 ~~[meeting or]~~ activity;

129 (xi) sponsorship of an ~~[official event or official entertainment of]~~ event that is an  
130 approved ~~[meeting or]~~ activity;

131 (xii) notwithstanding Subsection ~~[(6)]~~ (7)(a)(vii), admission to or attendance at an  
132 event, a tour, or a meeting:

133 (A) that is sponsored by a governmental entity; or

134 (B) that is widely attended and related to a governmental duty of a public official; or

135 (xiii) travel to a widely attended ~~[event]~~ tour or meeting related to a governmental duty  
136 of a public official if that travel results in a financial savings to the state.

137 ~~[(7)]~~ (8) (a) "Government officer" means:

138 (i) an individual elected to a position in state or local government, when acting within  
139 the government officer's official capacity; or

140 (ii) an individual appointed to or employed in a full-time position by state or local  
141 government, when acting within the scope of the individual's employment.

142 (b) "Government officer" does not mean a member of the legislative branch of state  
143 government.

144 ~~[(8)]~~ (9) "Immediate family" means:

145 (a) a spouse;

146 (b) a child residing in the household; or

147 (c) an individual claimed as a dependent for tax purposes.

148 ~~[(9)]~~ (10) "Legislative action" means:

149 (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or

150 proposed in either house of the Legislature or its committees or requested by a legislator; and

151 (b) the action of the governor in approving or vetoing legislation.

152 ~~[(10)]~~ (11) "Lobbying" means communicating with a public official for the purpose of  
153 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

154 ~~[(11)]~~ (12) (a) "Lobbyist" means:

155 (i) an individual who is employed by a principal; or

156 (ii) an individual who contracts for economic consideration, other than reimbursement  
157 for reasonable travel expenses, with a principal to lobby a public official.

158 (b) "Lobbyist" does not include:

159 (i) a government officer;

160 (ii) a member or employee of the legislative branch of state government;

161 (iii) a person while appearing at, or providing written comments to, a hearing  
162 conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or  
163 Title 63G, Chapter 4, Administrative Procedures Act;

164 (iv) a person participating on or appearing before an advisory or study task force,  
165 commission, board, or committee, constituted by the Legislature or any agency or department  
166 of state government, except legislative standing, appropriation, or interim committees;

167 (v) a representative of a political party;

168 (vi) an individual representing a bona fide church solely for the purpose of protecting  
169 the right to practice the religious doctrines of the church, unless the individual or church makes  
170 an expenditure that confers a benefit on a public official;

171 (vii) a newspaper, television station or network, radio station or network, periodical of  
172 general circulation, or book publisher for the purpose of publishing news items, editorials,  
173 other comments, or paid advertisements that directly or indirectly urge legislative or executive  
174 action; ~~[or]~~

175 (viii) an individual who appears on the individual's own behalf before a committee of  
176 the Legislature or an agency of the executive branch of state government solely for the purpose  
177 of testifying in support of or in opposition to legislative or executive action~~[-];~~ or

178 (ix) an individual representing a business, entity, or industry, who:

179 (A) interacts with public officials, in their capacity as public officials, less than seven  
180 days per year, while accompanied by a registered lobbyist; and

181 (B) does not make an expenditure for, or on behalf of, a public official in relation to the  
182 interaction or during the period of interaction.

183 ~~[(12)]~~ (13) "Lobbyist group" means two or more lobbyists, principals, government  
184 officers, or any combination of lobbyists, principals, and officers who each contribute a portion  
185 of an expenditure made to benefit a public official or member of the public official's immediate  
186 family.

187 (14) "Meeting" means a gathering of people to discuss an issue, receive instruction, or  
188 make a decision, including a conference, seminar, or summit.

189 ~~[(13)]~~ (15) "Multiclient lobbyist" means a single lobbyist, principal, or government  
190 officer who represents two or more clients and divides the aggregate daily expenditure made to  
191 benefit a public official or member of the public official's immediate family between two or  
192 more of those clients.

193 ~~[(14)]~~ (16) "Principal" means a person that employs an individual to perform lobbying,  
194 either as an employee or as an independent contractor.

195 ~~[(15)]~~ (17) "Public official" means:

- 196 (a) (i) a member of the Legislature;
- 197 (ii) an individual elected to a position in the executive branch of state government; or
- 198 (iii) an individual appointed to or employed in a position in the executive or legislative  
199 branch of state government if that individual:

200 (A) occupies a policymaking position or makes purchasing or contracting decisions;

201 (B) drafts legislation or makes rules;

202 (C) determines rates or fees; or

203 (D) makes adjudicative decisions; or

204 (b) an immediate family member of a person described in Subsection ~~[(15)]~~ (17)(a).

205 ~~[(16)]~~ (18) "Public official type" means a notation to identify whether a public official  
206 is:

207 (a) (i) a member of the Legislature;

208 (ii) an individual elected to a position in the executive branch of state government;

209 (iii) an individual appointed to or employed in a position in the legislative branch of  
210 state government who meets the definition of public official under Subsection ~~[(15)]~~

211 (17)(a)(iii); or

212 (iv) an individual appointed to or employed in a position in the executive branch of  
213 state government who meets the definition of public official under Subsection [(15)]

214 (17)(a)(iii); or

215 (b) an immediate family member of a person described in Subsection [(15)] (17)(b).

216 [(17)] (19) "Quarterly reporting period" means the three-month period covered by each  
217 financial report required under Subsection 36-11-201(2)(a).

218 [(18)] (20) "Related person" means a person, agent, or employee who knowingly and  
219 intentionally assists a lobbyist, principal, or government officer in lobbying.

220 [(19)] (21) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,  
221 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or  
222 spouse of any of these individuals.

223 (22) "Tour" means visiting a location, for a purpose relating to the duties of a public  
224 official, and not primarily for entertainment, including:

225 (a) viewing a facility;

226 (b) viewing the sight of a natural disaster; or

227 (c) assessing a circumstance in relation to which a public official may need to take  
228 action within the scope of the public official's duties.

229 Section 2. Section **36-11-103** is amended to read:

230 **36-11-103. Licensing requirements.**

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

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

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

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

237 (ii) a place for the following information for each principal for whom the lobbyist  
238 works or is hired as an independent contractor:

239 (A) the principal's name;

240 (B) the principal's business address;

241 (C) the name of each public official that the principal employs and the nature of the  
242 employment with the public official; and



- 243 (D) the general purposes, interests, and nature of the principal;
- 244 (iii) a place for the name and address of the person who paid or will pay the lobbyist's  
245 registration fee, if the fee is not paid by the lobbyist;
- 246 (iv) a place for the lobbyist to disclose:
- 247 (A) any elected or appointed position that the lobbyist holds in state or local  
248 government, if any; and
- 249 (B) the name of each public official that the lobbyist employs and the nature of the  
250 employment with the public official, if any;
- 251 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist  
252 will be reimbursed; and
- 253 (vi) a certification to be signed by the lobbyist that certifies that the information  
254 provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and  
255 belief.
- 256 (2) Each lobbyist who obtains a license under this section shall update the licensure  
257 information when the lobbyist accepts employment for lobbying by a new client.
- 258 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a  
259 lobbying license to an applicant who:
- 260 (i) files an application with the lieutenant governor that contains the information  
261 required by this section; and
- 262 (ii) pays a \$100 filing fee.
- 263 (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals  
264 and expires on December 31 of each even-numbered year.
- 265 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:
- 266 (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107,  
267 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;
- 268 (ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304  
269 within one year before the date of the lobbying license application;
- 270 (iii) for the term of any suspension imposed under Section 36-11-401;
- 271 (iv) if, within one year before the date of the lobbying license application, the applicant  
272 has been found to have willingly and knowingly:
- 273 (A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303,

274 36-11-304, 36-11-305, or 36-11-403; or

275 (B) filed a document required by this chapter that the lobbyist knew contained  
276 materially false information or omitted material information; or

277 (v) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24,  
278 Lobbying Restrictions Act.

279 (b) An applicant may appeal the disapproval in accordance with the procedures  
280 established by the lieutenant governor under this chapter and Title 63G, Chapter 4,  
281 Administrative Procedures Act.

282 (5) The lieutenant governor shall deposit license fees in the General Fund as a  
283 dedicated credit to be used by the lieutenant governor to administer the licensing program  
284 described in this section.

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

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

290 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the  
291 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the  
292 reports by Section 36-11-201.

293 Section 3. Section 36-11-304 is amended to read:

294 **36-11-304. Expenditures over \$10 prohibited -- Exceptions.**

295 (1) Except as provided in Subsection (2), a lobbyist, principal, or government officer  
296 may not make or offer to make aggregate daily expenditures that exceed \$10.

297 (2) A lobbyist, principal, or government officer may make aggregate daily expenditures  
298 that exceed \$10:

299 (a) for the following items, if the expenditure is reported in accordance with Section  
300 36-11-201:

301 (i) food;

302 (ii) beverage;

303 (iii) travel;

304 (iv) lodging; or

305 (v) admission to or attendance at a tour or meeting [~~or activity~~] that is not an approved  
306 [~~meeting or~~] activity; or  
307 (b) if the expenditure is made for a purpose solely unrelated to the public official's  
308 position as a public official.