

1 **LOBBYIST DISCLOSURE AND REGULATION ACT**

2 **REVISIONS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd Weiler**

6 House Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Lobbyist Disclosure and Regulation Act to require a
11 principal or lobbyist to include in a financial report time donated by the principal or
12 lobbyist for the benefit of a public official or a candidate for public office.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines the term "donated time";
- 16 ▶ requires a principal or lobbyist to include in a financial report time provided by the
17 principal or lobbyist, or by an employee of the principal or lobbyist at the direction
18 of the principal or lobbyist, without charge or at a reduced rate, for the benefit of a
19 public official or a candidate for public office;
- 20 ▶ requires that certain information be included in a financial report in relation to
21 donated time provided by a principal or lobbyist; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **36-11-102**, as last amended by Laws of Utah 2011, Chapter 212

30 **36-11-201**, as last amended by Laws of Utah 2010, Chapter 325

31

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

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

34 **36-11-102. Definitions.**

35 As used in this chapter:

36 (1) "Aggregate daily expenditures" means:

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

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

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

46 (2) "Approved meeting or activity" means a meeting or activity:

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

48 (ii) attendance at which is approved by:

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

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

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

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

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

58 (b) "Compensation" includes:

- 59 (i) a salary or commission;
- 60 (ii) a bonus;
- 61 (iii) a benefit;
- 62 (iv) a contribution to a retirement program or account;
- 63 (v) a payment includable in gross income, as defined in Section 62, Internal Revenue
- 64 Code, and subject to Social Security deductions, including a payment in excess of the
- 65 maximum amount subject to deduction under Social Security law;
- 66 (vi) an amount that the individual authorizes to be deducted or reduced for salary
- 67 deferral or other benefits authorized by federal law; or
- 68 (vii) income based on an individual's ownership interest.
- 69 (4) "Compensation payor" means a person who pays compensation to a public official
- 70 in the ordinary course of business:
- 71 (a) because of the public official's ownership interest in the compensation payor; or
- 72 (b) for services rendered by the public official on behalf of the compensation payor.
- 73 (5) "Donated time" means the time provided by a principal or lobbyist, or by an
- 74 employee of a principal or lobbyist at the direction of the principal or lobbyist, without charge
- 75 or at a reduced rate, for the benefit of a public official or a candidate for public office.
- 76 [~~5~~] (6) "Executive action" means:
- 77 (a) a nomination or appointment by the governor;
- 78 (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule
- 79 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 80 (c) agency ratemaking proceedings; or
- 81 (d) an adjudicative proceeding of a state agency.
- 82 [~~6~~] (7) (a) "Expenditure" means any of the items listed in this Subsection [~~6~~](7)(a)
- 83 when given to or for the benefit of a public official unless consideration of equal or greater
- 84 value is received:
- 85 (i) a purchase, payment, or distribution;
- 86 (ii) a loan, gift, or advance;
- 87 (iii) a deposit, subscription, or forbearance;
- 88 (iv) services or goods;
- 89 (v) money;

- 90 (vi) real property;
- 91 (vii) a ticket or admission to a sporting, recreational, or artistic event; or
- 92 (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide
- 93 any item listed in Subsections [~~(6)~~] (7)(a)(i) through (vii).
- 94 (b) "Expenditure" does not mean:
- 95 (i) a commercially reasonable loan made in the ordinary course of business;
- 96 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,
- 97 Campaign and Financial Reporting Requirements;
- 98 (iii) printed informational material that is related to the performance of the recipient's
- 99 official duties;
- 100 (iv) a devise or inheritance;
- 101 (v) any item listed in Subsection [~~(6)~~] (7)(a) if:
- 102 (A) given by a relative;
- 103 (B) given by a compensation payor for a purpose solely unrelated to the public
- 104 official's position as a public official; or
- 105 (C) (I) the item has a value of less than \$10; and
- 106 (II) the aggregate daily expenditures do not exceed \$10;
- 107 (vi) food or beverage that is provided at an event to which the following are invited:
- 108 (A) all members of the Legislature;
- 109 (B) all members of a standing or interim committee;
- 110 (C) all members of an official legislative task force;
- 111 (D) all members of a party caucus; or
- 112 (E) all members of a group described in Subsections [~~(6)~~] (7)(b)(vi)(A) through (D)
- 113 who are attending a meeting of a national organization whose primary purpose is addressing
- 114 general legislative policy;
- 115 (vii) food or beverage that is provided at an event to a public 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, the primary purpose of which is:
- 122 (A) to solicit contributions reportable under:
- 123 (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
- 124 (II) 2 U.S.C. Sec. 434; or
- 125 (B) charitable solicitation, as defined in Section 13-22-2;
- 126 (x) travel to, lodging at, food or beverage served at, and admission to an approved
- 127 meeting or activity;
- 128 (xi) sponsorship of an official event or official entertainment of an approved meeting
- 129 or activity;
- 130 (xii) notwithstanding Subsection [~~(6)~~] (7)(a)(vii), admission to or attendance at an
- 131 event:
- 132 (A) that is sponsored by a governmental entity; or
- 133 (B) that is widely attended and related to a governmental duty of a public official; or
- 134 (xiii) travel to a widely attended event related to a governmental duty of a public
- 135 official if that travel results in a financial savings to the state.
- 136 [~~(7)~~] (8) (a) "Government officer" means:
- 137 (i) an individual elected to a position in state or local government, when acting within
- 138 the government officer's official capacity; or
- 139 (ii) an individual appointed to or employed in a full-time position by state or local
- 140 government, when acting within the scope of the individual's employment.
- 141 (b) "Government officer" does not mean a member of the legislative branch of state
- 142 government.
- 143 [~~(8)~~] (9) "Immediate family" means:
- 144 (a) a spouse;
- 145 (b) a child residing in the household; or
- 146 (c) an individual claimed as a dependent for tax purposes.
- 147 [~~(9)~~] (10) "Legislative action" means:
- 148 (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or
- 149 proposed in either house of the Legislature or its committees or requested by a legislator; and
- 150 (b) the action of the governor in approving or vetoing legislation.
- 151 [~~(10)~~] (11) "Lobbying" means communicating with a public official for the purpose of

152 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

153 ~~[(11)]~~ (12) (a) "Lobbyist" means:

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

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

157 (b) "Lobbyist" does not include:

158 (i) a government officer;

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

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

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

166 (v) a representative of a political party;

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

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

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

177 ~~[(12)]~~ (13) "Lobbyist group" means two or more lobbyists, principals, government
178 officers, or any combination of lobbyists, principals, and officers who each contribute a portion
179 of an expenditure made to benefit a public official or member of the public official's immediate
180 family.

181 ~~[(13)]~~ (14) "Multiclient lobbyist" means a single lobbyist, principal, or government
182 officer who represents two or more clients and divides the aggregate daily expenditure made to

183 benefit a public official or member of the public official's immediate family between two or
 184 more of those clients.

185 ~~[(14)]~~ (15) "Principal" means a person that employs an individual to perform lobbying,
 186 either as an employee or as an independent contractor.

187 ~~[(15)]~~ (16) "Public official" means:

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

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

190 (iii) an individual appointed to or employed in a position in the executive or legislative
 191 branch of state government if that individual:

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

193 (B) drafts legislation or makes rules;

194 (C) determines rates or fees; or

195 (D) makes adjudicative decisions; or

196 (b) an immediate family member of a person described in Subsection ~~[(15)]~~ (16)(a).

197 ~~[(16)]~~ (17) "Public official type" means a notation to identify whether a public official
 198 is:

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

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

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

203 (16)(a)(iii); or

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

206 (16)(a)(iii); or

207 (b) an immediate family member of a person described in Subsection ~~[(15)]~~ (16)(b).

208 ~~[(17)]~~ (18) "Quarterly reporting period" means the three-month period covered by each
 209 financial report required under Subsection 36-11-201(2)(a).

210 ~~[(18)]~~ (19) "Related person" means a person, agent, or employee who knowingly and
 211 intentionally assists a lobbyist, principal, or government officer in lobbying.

212 ~~[(19)]~~ (20) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,
 213 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or

214 spouse of any of these individuals.

215 Section 2. Section **36-11-201** is amended to read:

216 **36-11-201. Lobbyist, principal, and government officer financial reporting**
217 **requirements -- Prohibition for related person to make expenditures.**

218 (1) (a) (i) A lobbyist shall file a financial [reports] report with the lieutenant governor
219 on or before the due dates specified in Subsection (2).

220 (ii) A lobbyist shall include, in a financial report described in Subsection (1)(a)(i), the
221 donated time provided by the lobbyist.

222 ~~(ii)~~ (iii) If a lobbyist has not made an expenditure during the quarterly reporting
223 period, the lobbyist shall file a financial report listing the amount of expenditures as "none."

224 (iv) If a lobbyist has not provided donated time during the quarterly reporting period,
225 the lobbyist shall state in the financial report the amount of donated time provided by the
226 lobbyist as "none."

227 (b) A government officer or principal that makes an expenditure during any of the
228 quarterly reporting periods ~~[under]~~ described in Subsection (2)(a) shall file a financial report
229 with the lieutenant governor on or before the date that a report for that quarter is due.

230 (c) A principal that provides donated time during any of the quarterly reporting periods
231 described in Subsection (2)(a) shall file a financial report with the lieutenant governor on or
232 before the date that a report for that quarter is due.

233 (2) (a) A financial report is due quarterly on the following dates:

234 (i) April 10, for the period of January 1 through March 31;

235 (ii) July 10, for the period of April 1 through June 30;

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

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

238 (b) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday,
239 the report is due on the next succeeding business day.

240 (c) A financial report is timely filed if it is filed electronically before the close of
241 regular office hours on or before the due date.

242 (3) A financial report shall contain:

243 (a) the total amount of expenditures made to benefit any public official during the
244 quarterly reporting period;

245 (b) the total amount of donated time provided during the quarterly reporting period;
246 [~~(b)~~] (c) the total amount of expenditures made, by the type of public official, during
247 the quarterly reporting period;
248 [~~(c)~~] (d) for the financial report due on January 10:
249 (i) the total amount of expenditures made to benefit any public official during the last
250 calendar year; [~~and~~]
251 (ii) the total amount of donated time provided to benefit any public official or
252 candidate for public office during the last calendar year; and
253 [~~(ii)~~] (iii) the total amount of expenditures made, by the type of public official, during
254 the last calendar year;
255 [~~(d)~~] (e) a disclosure of each expenditure made during the quarterly reporting period to
256 reimburse or pay for travel or lodging for a public official, including:
257 (i) each travel destination and each lodging location;
258 (ii) the name of each public official who benefitted from the expenditure on travel or
259 lodging;
260 (iii) the public official type of each public official named;
261 (iv) for each public official named, a listing of the amount and purpose of each
262 expenditure made for travel or lodging; and
263 (v) the total amount of expenditures listed under Subsection (3)[~~(d)~~](e)(iv);
264 [~~(e)~~] (f) a disclosure of aggregate daily expenditures greater than \$10 made during the
265 quarterly reporting period including:
266 (i) the date and purpose of the expenditure;
267 (ii) the location of the expenditure;
268 (iii) the name of any public official benefitted by the expenditure;
269 (iv) the type of the public official benefitted by the expenditure; and
270 (v) the total monetary worth of the benefit that the expenditure conferred on any public
271 official;
272 (g) a disclosure of the donated time provided during the quarterly reporting period,
273 including:
274 (i) the name of each individual who provided the donated time;
275 (ii) the name of the public official or candidate to whom the donated time was

276 provided;

277 (iii) the public official type of each public official named;

278 (iv) a description of the services provided during the donated time;

279 (v) the date when the donated time was provided; and

280 (vi) the total amount of donated time listed under this Subsection (3)(g);

281 ~~(f)~~ (h) for each public official who was employed by the lobbyist, principal, or
282 government officer, a list that provides:

283 (i) the name of the public official; and

284 (ii) the nature of the employment with the public official;

285 ~~(g)~~ (i) each bill or resolution, by number and short title, on behalf of which the
286 lobbyist, principal, or government officer made an expenditure to a public official;

287 ~~(h)~~ (j) a description of each executive action on behalf of which the lobbyist,
288 principal, or government officer made an expenditure to a public official;

289 ~~(i)~~ (k) the general purposes, interests, and nature of the entities that the lobbyist,
290 principal, or government officer filing the report represents; and

291 ~~(j)~~ (l) for a lobbyist, a certification that the information provided in the report is true,
292 accurate, and complete to the lobbyist's best knowledge and belief.

293 (4) A related person may not, while assisting a lobbyist, principal, or government
294 officer in lobbying, make an expenditure that benefits a public official under circumstances that
295 would otherwise fall within the disclosure requirements of this chapter if the expenditure was
296 made by the lobbyist, principal, or government officer.

297 (5) The lieutenant governor shall:

298 (a) (i) develop a preprinted form for a financial report required by this section; and

299 (ii) make copies of the form available to a lobbyist, principal, or government officer
300 who requests a form; and

301 (b) provide a reporting system that allows a lobbyist, principal, or government officer
302 to submit a financial report required by this chapter via the Internet.

303 (6) (a) A lobbyist and a principal shall continue to file a financial report required by
304 this section until the lobbyist or principal files a statement with the lieutenant governor that:

305 (i) states:

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

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

308 (ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's

309 license;

310 (iii) contains a listing, as required by this section, of all previously unreported

311 expenditures that have been made through the date of the statement; and

312 (iv) states that the lobbyist or principal will not make any additional expenditure that is

313 not disclosed on the statement unless the lobbyist or principal complies with the disclosure and

314 licensing requirements of this chapter.

315 (b) A person that fails to renew the lobbyist's license or otherwise ceases to be licensed

316 is required to file a financial report quarterly until the person files the statement required by

317 Subsection (6)(a).

Legislative Review Note

as of 1-13-14 4:00 PM

Office of Legislative Research and General Counsel