

1 **LOBBYIST DISCLOSURE AND REGULATION ACT**

2 **MODIFICATIONS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Mike K. McKell**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Lobbyist Disclosure and Regulation Act relating to
11 expenditures.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ exempts certain publications from the definition of an expenditure; and
- 15 ▶ describes the manner in which a public official may dispose of certain publications

16 that constitute an expenditure.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **36-11-102**, as last amended by Laws of Utah 2014, Chapter 335

24 ENACTS:

25 **36-11-304.5**, Utah Code Annotated 1953

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



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

29 **36-11-102. Definitions.**

30 As used in this chapter:

31 (1) "Aggregate daily expenditures" means:

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

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

38 (c) for a multicient lobbyist, the total of all expenditures made by the multicient
39 lobbyist within a calendar day for the benefit of an individual public official, regardless of
40 whether the expenditures were attributed to different clients.

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

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

43 (ii) attendance at which is approved by:

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

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

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

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

50 (3) "Capitol hill complex" [~~is as~~] means the same as that term is defined in Section
51 **63C-9-102**.

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

55 (b) "Compensation" includes:

56 (i) a salary or commission;

57 (ii) a bonus;

58 (iii) a benefit;

- 59 (iv) a contribution to a retirement program or account;
- 60 (v) a payment includable in gross income, as defined in Section 62, Internal Revenue
61 Code, and subject to Social Security deductions, including a payment in excess of the
62 maximum amount subject to deduction under Social Security law;
- 63 (vi) an amount that the individual authorizes to be deducted or reduced for salary
64 deferral or other benefits authorized by federal law; or
- 65 (vii) income based on an individual's ownership interest.
- 66 (5) "Compensation payor" means a person who pays compensation to a public official
67 in the ordinary course of business:
- 68 (a) because of the public official's ownership interest in the compensation payor; or
69 (b) for services rendered by the public official on behalf of the compensation payor.
- 70 (6) "Executive action" means:
- 71 (a) a nomination or appointment by the governor;
72 (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule
73 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 74 (c) agency ratemaking proceedings; or
75 (d) an adjudicative proceeding of a state agency.
- 76 (7) (a) "Expenditure" means any of the items listed in this Subsection (7)(a) when
77 given to or for the benefit of a public official unless consideration of equal or greater value is
78 received:
- 79 (i) a purchase, payment, or distribution;
80 (ii) a loan, gift, or advance;
81 (iii) a deposit, subscription, or forbearance;
82 (iv) services or goods;
83 (v) money;
84 (vi) real property;
85 (vii) a ticket or admission to a sporting, recreational, or artistic event; or
86 (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide
87 any item listed in Subsections (7)(a)(i) through (vii).
- 88 (b) "Expenditure" does not mean:
- 89 (i) a commercially reasonable loan made in the ordinary course of business;

- 90 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,
- 91 Campaign and Financial Reporting Requirements;
- 92 (iii) printed informational material that is related to the performance of the recipient's
- 93 official duties;
- 94 (iv) a devise or inheritance;
- 95 (v) any item listed in Subsection (7)(a) if:
- 96 (A) given by a relative;
- 97 (B) given by a compensation payor for a purpose solely unrelated to the public
- 98 official's position as a public official; or
- 99 (C) (I) the item has a value of less than \$10; and
- 100 (II) the aggregate daily expenditures do not exceed \$10;
- 101 (vi) food or beverage that is provided at an event to which the following are invited:
- 102 (A) all members of the Legislature;
- 103 (B) all members of a standing or interim committee;
- 104 (C) all members of an official legislative task force;
- 105 (D) all members of a party caucus; or
- 106 (E) all members of a group described in Subsections (7)(b)(vi)(A) through (D) who are
- 107 attending a meeting of a national organization whose primary purpose is addressing general
- 108 legislative policy;
- 109 (vii) food or beverage that is provided at an event to a public official who is:
- 110 (A) giving a speech at the event;
- 111 (B) participating in a panel discussion at the event; or
- 112 (C) presenting or receiving an award at the event;
- 113 (viii) a plaque, commendation, or award presented in public and having a cash value
- 114 not exceeding \$50;
- 115 (ix) a publication having a cash value not exceeding \$30;
- 116 [~~(ix)~~] (x) admission to or attendance at an event, the primary purpose of which is:
- 117 (A) to solicit contributions reportable under:
- 118 (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
- 119 (II) 2 U.S.C. Sec. 434; or
- 120 (B) charitable solicitation, as defined in Section 13-22-2;

- 121 [~~(x)~~] (xi) travel to, lodging at, food or beverage served at, and admission to an
122 approved meeting or activity;
- 123 [~~(xii)~~] (xii) sponsorship of an official event or official entertainment of an approved
124 meeting or activity;
- 125 [~~(xiii)~~] (xiii) notwithstanding Subsection (7)(a)(vii), admission to or attendance at an
126 event:
- 127 (A) that is sponsored by a governmental entity; or
- 128 (B) that is widely attended and related to a governmental duty of a public official; or
- 129 [~~(xiv)~~] (xiv) travel to a widely attended event related to a governmental duty of a
130 public official if that travel results in a financial savings to the state.
- 131 (8) (a) "Government officer" means:
- 132 (i) an individual elected to a position in state or local government, when acting within
133 the government officer's official capacity; or
- 134 (ii) an individual appointed to or employed in a full-time position by state or local
135 government, when acting within the scope of the individual's employment.
- 136 (b) "Government officer" does not mean a member of the legislative branch of state
137 government.
- 138 (9) "Immediate family" means:
- 139 (a) a spouse;
- 140 (b) a child residing in the household; or
- 141 (c) an individual claimed as a dependent for tax purposes.
- 142 (10) "Legislative action" means:
- 143 (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or
144 proposed in either house of the Legislature or its committees or requested by a legislator; and
- 145 (b) the action of the governor in approving or vetoing legislation.
- 146 (11) "Lobbying" means communicating with a public official for the purpose of
147 influencing the passage, defeat, amendment, or postponement of legislative or executive action.
- 148 (12) (a) "Lobbyist" means:
- 149 (i) an individual who is employed by a principal; or
- 150 (ii) an individual who contracts for economic consideration, other than reimbursement
151 for reasonable travel expenses, with a principal to lobby a public official.

- 152 (b) "Lobbyist" does not include:
- 153 (i) a government officer;
- 154 (ii) a member or employee of the legislative branch of state government;
- 155 (iii) a person while appearing at, or providing written comments to, a hearing
- 156 conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or
- 157 Title 63G, Chapter 4, Administrative Procedures Act;
- 158 (iv) a person participating on or appearing before an advisory or study task force,
- 159 commission, board, or committee, constituted by the Legislature or any agency or department
- 160 of state government, except legislative standing, appropriation, or interim committees;
- 161 (v) a representative of a political party;
- 162 (vi) an individual representing a bona fide church solely for the purpose of protecting
- 163 the right to practice the religious doctrines of the church, unless the individual or church makes
- 164 an expenditure that confers a benefit on a public official;
- 165 (vii) a newspaper, television station or network, radio station or network, periodical of
- 166 general circulation, or book publisher for the purpose of publishing news items, editorials,
- 167 other comments, or paid advertisements that directly or indirectly urge legislative or executive
- 168 action; or
- 169 (viii) an individual who appears on the individual's own behalf before a committee of
- 170 the Legislature or an agency of the executive branch of state government solely for the purpose
- 171 of testifying in support of or in opposition to legislative or executive action.
- 172 (13) "Lobbyist group" means two or more lobbyists, principals, government officers, or
- 173 any combination of lobbyists, principals, and officers who each contribute a portion of an
- 174 expenditure made to benefit a public official or member of the public official's immediate
- 175 family.
- 176 (14) "Multiclient lobbyist" means a single lobbyist, principal, or government officer
- 177 who represents two or more clients and divides the aggregate daily expenditure made to benefit
- 178 a public official or member of the public official's immediate family between two or more of
- 179 those clients.
- 180 (15) "Principal" means a person that employs an individual to perform lobbying, either
- 181 as an employee or as an independent contractor.
- 182 (16) "Public official" means:

183 (a) (i) a member of the Legislature;
184 (ii) an individual elected to a position in the executive branch of state government; or
185 (iii) an individual appointed to or employed in a position in the executive or legislative
186 branch of state government if that individual:

187 (A) occupies a policymaking position or makes purchasing or contracting decisions;
188 (B) drafts legislation or makes rules;
189 (C) determines rates or fees; or
190 (D) makes adjudicative decisions; or

191 (b) an immediate family member of a person described in Subsection (16)(a).

192 (17) "Public official type" means a notation to identify whether a public official is:

193 (a) (i) a member of the Legislature;
194 (ii) an individual elected to a position in the executive branch of state government;
195 (iii) an individual appointed to or employed in a position in the legislative branch of
196 state government who meets the definition of public official under Subsection (16)(a)(iii); or

197 (iv) an individual appointed to or employed in a position in the executive branch of
198 state government who meets the definition of public official under Subsection (16)(a)(iii); or

199 (b) an immediate family member of a person described in Subsection (16)(a).

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

202 (19) "Related person" means a person, agent, or employee who knowingly and
203 intentionally assists a lobbyist, principal, or government officer in lobbying.

204 (20) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister,
205 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse
206 of any of these individuals.

207 Section 2. Section **36-11-304.5** is enacted to read:

208 **36-11-304.5. Disposal of publications.**

209 If a lobbyist, principal, or government officer makes an expenditure, in the form of a
210 publication, to a public official, the public official may return the publication to the lobbyist,
211 principal, or government officer, donate the publication to a charity or a government entity, or
212 destroy the publication.

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