

Senator Karen Mayne proposes the following substitute bill:

LOBBYIST EXPENDITURES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill amends provisions relating to expenditures for a public official.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies provisions relating to an approved activity;
- ▶ requires a lobbyist to file certain reports related to the lobbyist's expenditure on a local official or education official;
- ▶ establishes limits for a lobbyist's expenditures on a local official or education official;
- ▶ establishes provisions for the disposal of a publication that qualifies as an expenditure;
- ▶ establishes criminal and civil penalties;
- ▶ grants rulemaking authority to the director of elections within the Office of the Lieutenant Governor; and
- ▶ makes most of the provisions of the Lobbyist Disclosure and Regulation Act applicable to expenditures for a local official or an education official by incorporating those provisions into a Local Government and Board of Education



26 Lobbyist Disclosure and Regulation Act.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **36-11-102**, as last amended by Laws of Utah 2018, Chapters 19 and 67

34 **63A-14-202**, as last amended by Laws of Utah 2018, Chapter 461

35 **63A-15-201**, as renumbered and amended by Laws of Utah 2018, Chapter 461

36 **63E-1-401**, as enacted by Laws of Utah 2001, Chapter 201

37 **63E-1-404**, as enacted by Laws of Utah 2001, Chapter 201

38 **76-10-1602**, as last amended by Laws of Utah 2014, Chapter 167

39 ENACTS:

40 **36-11a-101**, Utah Code Annotated 1953

41 **36-11a-102**, Utah Code Annotated 1953

42 **36-11a-201**, Utah Code Annotated 1953

43 **36-11a-202**, Utah Code Annotated 1953

44 **36-11a-203**, Utah Code Annotated 1953

45 **36-11a-301**, Utah Code Annotated 1953

46 **36-11a-302**, Utah Code Annotated 1953

47 **36-11a-303**, Utah Code Annotated 1953



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

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

51 **36-11-102. Definitions.**

52 As used in this chapter:

53 (1) "Aggregate daily expenditures" means:

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

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

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

63 (2) "Approved activity" means an event, a tour, or a meeting:

64 (a) (i) to which a legislator or another nonexecutive branch public official is invited;

65 and

66 (ii) attendance at which is approved by:

67 (A) the speaker of the House of Representatives, if the public official is a member of
68 the House of Representatives or another nonexecutive branch public official; or

69 (B) the president of the Senate, if the public official is a member of the Senate or
70 another nonexecutive branch public official; or

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

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

74 (3) "Capitol hill complex" means the same as that term is defined in Section
75 [63C-9-102](#).

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

79 (b) "Compensation" includes:

80 (i) a salary or commission;

81 (ii) a bonus;

82 (iii) a benefit;

83 (iv) a contribution to a retirement program or account;

84 (v) a payment includable in gross income, as defined in Section 62, Internal Revenue
85 Code, and subject to Social Security deductions, including a payment in excess of the
86 maximum amount subject to deduction under Social Security law;

87 (vi) an amount that the individual authorizes to be deducted or reduced for salary

88 deferral or other benefits authorized by federal law; or

89 (vii) income based on an individual's ownership interest.

90 (5) "Compensation payor" means a person who pays compensation to a public official
91 in the ordinary course of business:

92 (a) because of the public official's ownership interest in the compensation payor; or

93 (b) for services rendered by the public official on behalf of the compensation payor.

94 (6) "Event" means entertainment, a performance, a contest, or a recreational activity
95 that an individual participates in or is a spectator at, including a sporting event, an artistic
96 event, a play, a movie, dancing, or singing.

97 (7) "Executive action" means:

98 (a) a nomination or appointment by the governor;

99 (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule
100 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

101 (c) agency ratemaking proceedings; or

102 (d) an adjudicative proceeding of a state agency.

103 (8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when
104 given to or for the benefit of a public official unless consideration of equal or greater value is
105 received:

106 (i) a purchase, payment, or distribution;

107 (ii) a loan, gift, or advance;

108 (iii) a deposit, subscription, or forbearance;

109 (iv) services or goods;

110 (v) money;

111 (vi) real property;

112 (vii) a ticket or admission to an event; or

113 (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide
114 any item listed in Subsections (8)(a)(i) through (vii).

115 (b) "Expenditure" does not mean:

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

117 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,
118 Campaign and Financial Reporting Requirements;

119 (iii) printed informational material that is related to the performance of the recipient's
120 official duties;

121 (iv) a devise or inheritance;

122 (v) any item listed in Subsection (8)(a) if:

123 (A) given by a relative;

124 (B) given by a compensation payor for a purpose solely unrelated to the public
125 official's position as a public official;

126 (C) the item is food or beverage with a value that does not exceed the food
127 reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed
128 the food reimbursement rate; or

129 (D) the item is not food or beverage, has a value of less than \$10, and the aggregate
130 daily expenditures do not exceed \$10;

131 (vi) food or beverage that is provided at an event, a tour, or a meeting to which the
132 following are invited:

133 (A) all members of the Legislature;

134 (B) all members of a standing or interim committee;

135 (C) all members of an official legislative task force;

136 (D) all members of a party caucus; or

137 (E) all members of a group described in Subsections (8)(b)(vi)(A) through (D) who are
138 attending a meeting of a national organization whose primary purpose is addressing general
139 legislative policy;

140 (vii) food or beverage that is provided at an event, a tour, or a meeting to a public
141 official who is:

142 (A) giving a speech at the event, tour, or meeting;

143 (B) participating in a panel discussion at the event, tour, or meeting; or

144 (C) presenting or receiving an award at the event, tour, or meeting;

145 (viii) a plaque, commendation, or award that:

146 (A) is presented in public;

147 (B) has the name of the individual receiving the plaque, commendation, or award
148 inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or
149 award;

- 150 (ix) a gift that:
- 151 (A) is an item that is not consumable and not perishable;
- 152 (B) a public official accepts on behalf of the state;
- 153 (C) the public official promptly remits to the state;
- 154 (D) a property administrator does not reject under Section [63G-23-103](#);
- 155 (E) does not constitute a direct benefit to the public official before or after the public
- 156 official remits the gift to the state; and
- 157 (F) after being remitted to the state, is not transferred, divided, distributed, or used to
- 158 distribute a gift or benefit to one or more public officials in a manner that would otherwise
- 159 qualify the gift as an expenditure if the gift were given directly to a public official;
- 160 (x) a publication having a cash value not exceeding \$30;
- 161 (xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of
- 162 which is:
- 163 (A) to solicit contributions reportable under:
- 164 (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
- 165 (II) 2 U.S.C. Sec. 434; or
- 166 (B) charitable solicitation, as defined in Section [13-22-2](#);
- 167 (xii) travel to, lodging at, food or beverage served at, and admission to an approved
- 168 activity;
- 169 (xiii) sponsorship of [~~an event that is~~] an approved activity;
- 170 (xiv) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or
- 171 from an event, a tour, or a meeting:
- 172 (A) that is sponsored by a governmental entity; or
- 173 (B) that is widely attended and related to a governmental duty of a public official; or
- 174 (xv) travel to a widely attended tour or meeting related to a governmental duty of a
- 175 public official if that travel results in a financial savings to the state.
- 176 (9) "Food reimbursement rate" means the total amount set by the director of the
- 177 Division of Finance, by rule, under Section [63A-3-107](#), for in-state meal reimbursement, for an
- 178 employee of the executive branch, for an entire day.
- 179 (10) (a) "Government officer" means:
- 180 (i) an individual elected to a position in state or local government, when acting within

181 the government officer's official capacity; or

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

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

186 (11) "Immediate family" means:

187 (a) a spouse;

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

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

190 (12) "Legislative action" means:

191 (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or
192 proposed in either house of the Legislature or its committees or requested by a legislator; and

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

194 (13) "Lobbying" means communicating with a public official for the purpose of
195 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

196 (14) (a) "Lobbyist" means:

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

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

200 (b) "Lobbyist" does not include:

201 (i) a government officer;

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

203 (iii) a person, including a principal, while appearing at, or providing written comments
204 to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative
205 Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

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

209 (v) a representative of a political party;

210 (vi) an individual representing a bona fide church solely for the purpose of protecting
211 the right to practice the religious doctrines of the church, unless the individual or church makes

212 an expenditure that confers a benefit on a public official;

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

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

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

221 (A) interacts with a public official, in the public official's capacity as a public official,
222 while accompanied by a registered lobbyist who is lobbying in relation to the subject of the
223 interaction or while presenting at a legislative committee meeting at the same time that the
224 registered lobbyist is attending another legislative committee meeting; and

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

227 (15) "Lobbyist group" means two or more lobbyists, principals, government officers, or
228 any combination of lobbyists, principals, and officers who each contribute a portion of an
229 expenditure made to benefit a public official or member of the public official's immediate
230 family.

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

233 (17) "Multiclient lobbyist" means a single lobbyist, principal, or government officer
234 who represents two or more clients and divides the aggregate daily expenditure made to benefit
235 a public official or member of the public official's immediate family between two or more of
236 those clients.

237 (18) "Principal" means a person that employs an individual to perform lobbying, either
238 as an employee or as an independent contractor.

239 (19) "Public official" means:

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

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

242 (iii) an individual appointed to or employed in a position in the executive or legislative

243 branch of state government if that individual:

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

245 (B) drafts legislation or makes rules;

246 (C) determines rates or fees; or

247 (D) makes adjudicative decisions; or

248 (b) an immediate family member of a person described in Subsection (19)(a).

249 (20) "Public official type" means a notation to identify whether a public official is:

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

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

252 (iii) an individual appointed to or employed in a position in the legislative branch of

253 state government who meets the definition of public official under Subsection (19)(a)(iii); or

254 (iv) an individual appointed to or employed in a position in the executive branch of

255 state government who meets the definition of public official under Subsection (19)(a)(iii); or

256 (b) an immediate family member of a person described in Subsection (19)(a).

257 (21) "Quarterly reporting period" means the three-month period covered by each

258 financial report required under Subsection 36-11-201(2)(a).

259 (22) "Related person" means a person, agent, or employee who knowingly and

260 intentionally assists a lobbyist, principal, or government officer in lobbying.

261 (23) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister,

262 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse

263 of any of these individuals.

264 (24) "Tour" means visiting a location, for a purpose relating to the duties of a public

265 official, and not primarily for entertainment, including:

266 (a) viewing a facility;

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

268 (c) assessing a circumstance in relation to which a public official may need to take

269 action within the scope of the public official's duties.

270 Section 2. Section 36-11a-101 is enacted to read:

271 **CHAPTER 11a. LOCAL GOVERNMENT AND BOARD OF EDUCATION LOBBYIST**

272 **DISCLOSURE AND REGULATION ACT**

273 **Part 1. General Provisions**

274 36-11a-101. Title.

275 This chapter is known as the "Local Government and Board of Education Lobbyist
276 Disclosure and Regulation Act."

277 Section 3. Section **36-11a-102** is enacted to read:

278 36-11a-102. Definitions.

279 As used in this chapter:

280 (1) "Aggregate daily expenditures" means:

281 (a) for a single lobbyist, principal, or government officer, the total of all expenditures
282 made within a calendar day by the lobbyist, principal, or government officer for the benefit of
283 an individual local official or education official;

284 (b) for an expenditure made by a member of a lobbyist group, the total of all
285 expenditures made within a calendar day by every member of the lobbyist group for the benefit
286 of an individual local official or education official; or

287 (c) for a multiclient lobbyist, the total of all expenditures made by the multiclient
288 lobbyist within a calendar day for the benefit of an individual local official or education
289 official, regardless of whether the expenditures were attributed to different clients.

290 (2) "Board of education" means:

291 (a) a local school board described in Title 53G, Chapter 4, School Districts;

292 (b) the State Board of Education;

293 (c) the State Charter School Board created under Section [53G-5-201](#); or

294 (d) a charter school governing board described in Title 53G, Chapter 5, Charter
295 Schools.

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

299 (b) "Compensation" includes:

300 (i) a salary or commission;

301 (ii) a bonus;

302 (iii) a benefit;

303 (iv) a contribution to a retirement program or account;

304 (v) a payment includable in gross income, as defined in Section 62, Internal Revenue

305 Code, and subject to social security deductions, including a payment in excess of the maximum
306 amount subject to deduction under social security law;

307 (vi) an amount that the individual authorizes to be deducted or reduced for salary
308 deferral or other benefits authorized by federal law; or

309 (vii) income based on an individual's ownership interest.

310 (4) "Compensation payor" means a person who pays compensation to a local official or
311 education official in the ordinary course of business:

312 (a) because of the local official's or education official's ownership interest in the
313 compensation payor; or

314 (b) for services rendered by the local official or education official on behalf of the
315 compensation payor.

316 (5) "Education action" means:

317 (a) a resolution, policy, or other official action for consideration by a board of
318 education;

319 (b) a nomination or appointment by an education official or a board of education;

320 (c) an administrative action taken by a vote of a board of education;

321 (d) an adjudicative proceeding over which an education official has direct or indirect
322 control;

323 (e) a purchasing or contracting decision;

324 (f) drafting or making a policy, resolution, or rule;

325 (g) determining a rate or fee; or

326 (h) making an adjudicative decision.

327 (6) "Education official" means:

328 (a) a member of a board of education;

329 (b) an individual appointed to or employed in a position under a board of education if
330 that individual:

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

332 (ii) drafts resolutions or policies or drafts or makes rules;

333 (iii) determines rates or fees; or

334 (iv) makes adjudicative decisions; or

335 (c) an immediate family member of an individual described in Subsection (6)(a) or (b).

336 (7) "Event" means entertainment, a performance, a contest, or a recreational activity
337 that an individual participates in or is a spectator at, including a sporting event, an artistic
338 event, a play, a movie, dancing, or singing.

339 (8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when
340 given to or for the benefit of a local official or education official unless consideration of equal
341 or greater value is received:

- 342 (i) a purchase, payment, or distribution;
- 343 (ii) a loan, gift, or advance;
- 344 (iii) a deposit, subscription, or forbearance;
- 345 (iv) services or goods;
- 346 (v) money;
- 347 (vi) real property;
- 348 (vii) a ticket or admission to an event; or
- 349 (viii) a contract, promise, or agreement, whether or not legally enforceable, to provide
350 any item listed in Subsections (8)(a)(i) through (vii).

351 (b) "Expenditure" does not mean:

- 352 (i) a commercially reasonable loan made in the ordinary course of business;
- 353 (ii) a campaign contribution:

354 (A) reported in accordance with Title 20A, Chapter 11, Campaign and Finance
355 Reporting Requirements, Section 10-3-208 or Section 17-16-6.5, or an applicable ordinance
356 described in Subsection 10-3-208(5) or Subsection 17-16-6.5(1); or

357 (B) lawfully given to a person that is not required to report the contribution under a law
358 or ordinance described in Subsection (8)(b)(ii)(A);

359 (iii) printed informational material that is related to the performance of the recipient's
360 official duties;

- 361 (iv) a devise or inheritance;
- 362 (v) any item listed in Subsection (8)(a) if:

363 (A) given by a relative;

364 (B) given by a compensation payor for a purpose solely unrelated to the local official's
365 or education official's position as a local official or education official;

366 (C) the item is food or beverage with a value that does not exceed the food

367 reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed
368 the food reimbursement rate; or

369 (D) the item is not food or beverage, has a value of less than \$10, and the aggregate
370 daily expenditures do not exceed \$10;

371 (vi) food or beverage that is provided at an event, a tour, or a meeting to a local official
372 or education official who is:

373 (A) giving a speech at the event, tour, or meeting;

374 (B) participating in a panel discussion at the event, tour, or meeting; or

375 (C) presenting or receiving an award at the event, tour, or meeting;

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

377 (A) is presented in public; and

378 (B) has the name of the individual receiving the plaque, commendation, or award
379 inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or
380 award;

381 (viii) a publication having a cash value not exceeding \$30;

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

384 (A) to solicit a contribution that is reportable under 2 U.S.C. Sec. 434, Title 20A,
385 Chapter 11, Campaign and Financial Reporting Requirements, Section [10-3-208](#) or Section
386 [17-16-6.5](#), or an applicable ordinance described in Subsection [10-3-208\(5\)](#) or Subsection
387 [17-16-6.5\(1\)](#);

388 (B) to solicit a campaign contribution that a person is not required to report under a law
389 or ordinance described in Subsection (8)(b)(ix)(A); or

390 (C) charitable solicitation, as defined in Section [13-22-2](#);

391 (x) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or
392 from an event, a tour, or a meeting for a local official or education official:

393 (A) that is sponsored by a governmental entity, a public school, a charter school, or an
394 organization that represents only local governmental entities, public schools, or charter schools,
395 including the Utah Association of Counties, the Utah League of Cities and Towns, the Utah
396 Association of Special Districts, the Utah Association of Public Charter Schools, the Utah
397 School Boards Association, or the Utah School Superintendents Association; or

398 (B) that is widely attended and related to a governmental duty of the local official or
399 education official; or

400 (xi) travel to a widely attended tour or meeting related to a governmental duty of a
401 local official or education official if that travel results in a financial savings to the local
402 government or board of education to which the local official or education official belongs.

403 (9) "Food reimbursement rate" means the total amount set by the director of the
404 Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an
405 employee of the executive branch, for an entire day.

406 (10) (a) "Government officer" means:

407 (i) an individual elected to a position in state or local government, when acting in the
408 capacity of the state or local government position;

409 (ii) an individual elected to a board of education, when acting in the capacity of a
410 member of a board of education;

411 (iii) an individual appointed to fill a vacancy in a position described in Subsection
412 (10)(a)(i) or (ii), when acting in the capacity of the position; or

413 (iv) an individual appointed to or employed in a full-time position by state government,
414 local government, or board of education, when acting in the capacity of the individual's
415 appointment or employment.

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

418 (11) "Immediate family" means:

419 (a) a spouse;

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

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

422 (12) "Lobbying" means communicating with a local official or education official for
423 the purpose of influencing a local action or education action.

424 (13) (a) "Lobbyist" means:

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

426 (ii) an individual who contracts for economic consideration, other than reimbursement
427 for reasonable travel expenses, with a principal to lobby a local official or education official.

428 (b) "Lobbyist" does not include:

- 429 (i) a government officer;
- 430 (ii) a member or employee of the legislative branch of state government;
- 431 (iii) a person participating on or appearing before an advisory or study task force,
432 commission, board, or committee, constituted by a local government or board of education;
- 433 (iv) a representative of a political party;
- 434 (v) an individual representing a bona fide church solely for the purpose of protecting
435 the right to practice the religious doctrines of the church, unless the individual or church makes
436 an expenditure that confers a benefit on a local official or education official;
- 437 (vi) a newspaper, television station or network, radio station or network, periodical of
438 general circulation, or book publisher for the purpose of publishing news items, editorials,
439 other comments, or paid advertisements that directly or indirectly urge local action or education
440 action;
- 441 (vii) an individual who appears on the individual's own behalf before a board of
442 education, the governing body of a local government, or a committee of a local government or
443 board of education, solely for the purpose of testifying in support of or in opposition to local
444 action or education action; or
- 445 (viii) an individual representing a business, entity, or industry, who:
- 446 (A) interacts with a local official or education official, in the local official's or
447 education official's capacity as a local official or education official, while accompanied by a
448 lobbyist who is lobbying in relation to the subject of the interaction; and
- 449 (B) does not make an expenditure for, or on behalf of, a local official or education
450 official in relation to the interaction or during the period of interaction.
- 451 (14) "Lobbyist group" means two or more lobbyists, principals, government officers, or
452 any combination of lobbyists, principals, and government officers, who each contribute a
453 portion of an expenditure made to benefit a local official or education official or member of the
454 local official's or education official's immediate family.
- 455 (15) "Local action" means:
- 456 (a) an ordinance or resolution for consideration by a local government;
- 457 (b) a nomination or appointment by a local official or a local government;
- 458 (c) an administrative action taken by a vote of a local government's legislative body;
- 459 (d) an adjudicative proceeding over which a local official has direct or indirect control;

- 460 (e) a purchasing or contracting decision;
- 461 (f) drafting or making a policy, resolution, or rule;
- 462 (g) determining a rate or fee; or
- 463 (h) making an adjudicative decision.
- 464 (16) "Local government" means:
- 465 (a) a county, city, town, or metro township;
- 466 (b) a local district governed by Title 17B, Limited Purpose Local Government Entities
- 467 - Local Districts;
- 468 (c) a special service district governed by Title 17D, Chapter 1, Special Service District
- 469 Act;
- 470 (d) a community reinvestment agency governed by Title 17C, Limited Purpose Local
- 471 Government Entities - Community Reinvestment Agency Act;
- 472 (e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;
- 473 (f) a redevelopment agency; or
- 474 (g) an interlocal entity or a joint or cooperative undertaking governed by Title 11,
- 475 Chapter 13, Interlocal Cooperation Act.
- 476 (17) "Local official" means:
- 477 (a) an elected member of a local government;
- 478 (b) an individual appointed to or employed in a position in a local government if that
- 479 individual:
- 480 (i) occupies a policymaking position or makes purchasing or contracting decisions;
- 481 (ii) drafts ordinances or resolutions or drafts or makes rules;
- 482 (iii) determines rates or fees; or
- 483 (iv) makes adjudicative decisions; or
- 484 (c) an immediate family member of an individual described in Subsection (17)(a) or
- 485 (b).
- 486 (18) "Meeting" means a gathering of people to discuss an issue, receive instruction, or
- 487 make a decision, including a conference, seminar, or summit.
- 488 (19) "Multiclient lobbyist" means a single lobbyist, principal, or government officer
- 489 who represents two or more clients and divides the aggregate daily expenditure made to benefit
- 490 a local official or education official or member of the local official's or education official's

491 immediate family between two or more of those clients.

492 (20) "Principal" means a person that employs an individual to perform lobbying, either
493 as an employee or as an independent contractor.

494 (21) "Quarterly reporting period" means the three-month period covered by each
495 financial report required under Section [36-11a-201](#).

496 (22) "Related person" means a person, agent, or employee who knowingly and
497 intentionally assists a lobbyist, principal, or government officer in lobbying.

498 (23) "Relative" means:

499 (a) a spouse;

500 (b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law,
501 brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

502 (c) a spouse of an individual described in Subsection (23)(b).

503 (24) "Tour" means the visit of a location by a local official or education official, for a
504 purpose relating to the duties of the local official or education official, and not primarily for
505 entertainment, including:

506 (a) viewing a facility;

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

508 (c) assessing a circumstance in relation to which a local official or education official
509 may need to take action within the scope of the local official's or education official's duties.

510 (25) "Type of public official" means a notation to identify whether an individual is:

511 (a) a local official, including a notation of the type of local government for which the
512 individual is a local official;

513 (b) an education official, including a notation of the type of board of education for
514 which the individual is an education official; or

515 (c) an immediate family member of an individual described in Subsection (6)(a),
516 (6)(b), (17)(a), or (17)(b).

517 Section 4. Section **36-11a-201** is enacted to read:

518 **Part 2. Disclosure of Expenditures**

519 **36-11a-201. Lobbyist, principal, and government officer financial reporting**
520 **requirements -- Prohibition for related person to make expenditures.**

521 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), a lobbyist shall file financial

522 reports with the lieutenant governor on or before the due dates specified in Subsection (2).

523 (ii) A lobbyist who has not made an expenditure during a quarterly reporting period is
524 not required to file a quarterly financial report for that quarterly reporting period.

525 (iii) A lobbyist who is not required to file any quarterly reports under this section for a
526 calendar year shall, on or before January 10 of the following year, file a financial report listing
527 the amount of the expenditures for the entire preceding year as "none."

528 (b) Except as provided in Subsection (1)(c), a government officer or principal that
529 makes an expenditure during any of the quarterly reporting periods under Subsection (2)(a)
530 shall file a financial report with the lieutenant governor on or before the date that a report for
531 that quarter is due.

532 (c) (i) As used in this Subsection (1)(c), "same local government type" means:

533 (A) for a county government, another county government;

534 (B) for a municipal government, another municipal government;

535 (C) for a local board of education, another local board of education;

536 (D) for a local district, another local district or a special service district; or

537 (E) for a special service district, another special service district or a local district.

538 (ii) A government officer or local official is not required, under this section, to report
539 an expenditure made by the government officer or local official to another government officer
540 or local official if the government officer or local official making the expenditure is of the
541 same local government type as the government officer or local official receiving the
542 expenditure.

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

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

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

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

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

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

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

552 (3) A financial report shall contain:

- 553 (a) the total amount of expenditures made to benefit any local official or education
554 official during the quarterly reporting period;
- 555 (b) the total amount of expenditures made, by the type of official, during the quarterly
556 reporting period;
- 557 (c) for the financial report due on January 10:
- 558 (i) the total amount of expenditures made to benefit any local official or education
559 official during the last calendar year; and
- 560 (ii) the total amount of expenditures made, by the type of official, during the last
561 calendar year;
- 562 (d) a disclosure of each expenditure made during the quarterly reporting period to
563 reimburse or pay for travel or lodging for a local official or education official, including:
- 564 (i) each travel destination and each lodging location;
- 565 (ii) the name of each local official or education official who benefitted from the
566 expenditure on travel or lodging;
- 567 (iii) the type of official of each local official or education official named;
- 568 (iv) for each local official or education official named, a listing of the amount and
569 purpose of each expenditure made for travel or lodging; and
- 570 (v) the total amount of expenditures listed under Subsection (3)(d)(iv);
- 571 (e) a disclosure of aggregate daily expenditures greater than \$10 made during the
572 quarterly reporting period including:
- 573 (i) the date and purpose of the expenditure;
- 574 (ii) the location of the expenditure;
- 575 (iii) the name of any local official or education official benefitted by the expenditure;
- 576 (iv) the type of official benefitted by the expenditure; and
- 577 (v) the total monetary worth of the benefit that the expenditure conferred on any local
578 official or education official;
- 579 (f) for each local official or education official who was employed by the lobbyist,
580 principal, or government officer, a list that provides:
- 581 (i) the name of the local official or education official; and
- 582 (ii) the nature of the employment with the local official or education official;
- 583 (g) a description of each local action or education action regarding which the lobbyist,

584 principal, or government officer made an expenditure to a local official or education official;

585 (h) the general purposes, interests, and nature of the entities that the lobbyist, principal,
586 or government officer filing the report represents; and

587 (i) for a lobbyist, a certification that the information provided in the report is true,
588 accurate, and complete to the lobbyist's best knowledge and belief.

589 (4) A related person may not, while assisting a lobbyist, principal, or government
590 officer in lobbying, make an expenditure that benefits a local official or education official
591 under circumstances that would otherwise fall within the disclosure requirements of this
592 chapter if the expenditure was made by the lobbyist, principal, or government officer.

593 (5) The lieutenant governor:

594 (a) shall provide a reporting system that allows a lobbyist, principal, or government
595 officer to submit a financial report required by this chapter via the Internet; and

596 (b) may integrate the reporting system described in Subsection (5)(a) with the reporting
597 system described in Subsection 36-11-201(5)(b).

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

600 (i) (A) for a lobbyist, states that the lobbyist has ceased lobbying activities; or

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

603 (ii) contains a listing, as required by this section, of all previously unreported
604 expenditures that have been made through the date of the statement; and

605 (iii) states that the lobbyist or principal will not make any additional expenditure that is
606 not disclosed on the statement unless the lobbyist or principal complies with the disclosure
607 requirements of this chapter.

608 (b) Except as provided in Subsection (1)(a)(ii), a lobbyist or principal that is required
609 to file a financial report under this section is required to file the report quarterly until the
610 lobbyist or principal files the statement required by Subsection (6)(a).

611 Section 5. Section **36-11a-202** is enacted to read:

612 **36-11a-202. Expenditures over certain amounts prohibited -- Exceptions.**

613 (1) Except as provided in Subsection (2) or (3), a lobbyist, principal, or government
614 officer may not make or offer to make aggregate daily expenditures that exceed:

615 (a) for food or beverage, the food reimbursement rate; or

616 (b) \$10 for expenditures other than food or beverage.

617 (2) A lobbyist, principal, or government officer may make aggregate daily expenditures
618 that exceed the limits described in Subsection (1):

619 (a) for the following items, if the expenditure is reported in accordance with Section
620 36-11a-201:

621 (i) food;

622 (ii) beverage;

623 (iii) travel;

624 (iv) lodging; or

625 (v) admission to or attendance at a tour or meeting; or

626 (b) if the expenditure is made for a purpose solely unrelated to the local official's or
627 education official's position as a local official or education official.

628 (3) (a) As used in this Subsection (3), "same local government type" means:

629 (i) for a county government, another county government;

630 (ii) for a municipal government, another municipal government;

631 (iii) for a local board of education, another local board of education;

632 (iv) for a local district, another local district or a special service district; or

633 (v) for a special service district, another special service district or a local district.

634 (b) This section does not apply to an expenditure made by a government officer or
635 local official to another government officer or local official if the government officer or local
636 official making the expenditure is of the same local government type as the government officer
637 or local official receiving the expenditure.

638 Section 6. Section **36-11a-203** is enacted to read:

639 **36-11a-203. Disposal of publications.**

640 If a lobbyist, principal, or government officer makes an expenditure, in the form of a
641 publication, to a local official or education official, the local official or education official may
642 return the publication to the lobbyist, principal, or government officer, donate the publication
643 to a charity or a government entity, or destroy the publication.

644 Section 7. Section **36-11a-301** is enacted to read:

645 **Part 3. Penalties and Statutory Construction**

646 **36-11a-301. Penalties.**

647 (1) A person who intentionally violates Section 36-11a-201 or 36-11a-202 is subject to
648 the following penalties:

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

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

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

652 (ii) suspension of the violator's lobbying license for up to one year, if the person is a
653 registered lobbyist under Section 36-11-103.

654 (2) Any person who intentionally fails to file a financial report required by this chapter,
655 omits material information from a financial report, or files false information on a financial
656 report, is subject to the following penalties:

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

658 (b) suspension of the violator's lobbying license for up to one year, if the person is a
659 registered lobbyist under Section 36-11-103.

660 (3) In addition to any penalty imposed under Subsection (1) or (2), a person who
661 intentionally fails to file a financial report required by this chapter on the date the report is due
662 is subject to a penalty of up to \$50 per day for each day that the report is late.

663 (4) A person with evidence of a possible violation of this chapter may submit the
664 evidence to the lieutenant governor for investigation.

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

666 Section 8. Section **36-11a-302** is enacted to read:

667 **36-11a-302. Lieutenant governor's procedures.**

668 The director of elections within the Office of the Lieutenant Governor shall make rules
669 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that provide
670 for the appointment of an administrative law judge to adjudicate alleged violations of this
671 chapter and to impose penalties under this chapter.

672 Section 9. Section **36-11a-303** is enacted to read:

673 **36-11a-303. Construction and interpretation -- Freedom of expression,**
674 **participation, and press -- Non-preemption.**

675 (1) No provision of this chapter may be construed in a manner that limits:

676 (a) a person's right of freedom of expression and participation in government; or

677 (b) freedom of the press.

678 (2) This chapter does not prevent a local government or public education entity from
679 enacting an ordinance or adopting a policy, that the local government or public education entity
680 otherwise has the lawful authority to enact or adopt, that is stricter than the requirements of this
681 chapter.

682 Section 10. Section **63A-14-202** is amended to read:

683 **63A-14-202. Independent Executive Branch Ethics Commission -- Membership.**

684 (1) (a) There is created the Independent Executive Branch Ethics Commission,
685 consisting of the following five members appointed by the governor, each of whom shall be
686 registered to vote in the state at the time of appointment:

687 (i) two members who served:

688 (A) as elected officials in state government no more recently than four years before the
689 day on which the member is appointed; or

690 (B) in a management position in the state executive branch no more recently than four
691 years before the day on which the member is appointed;

692 (ii) one member who:

693 (A) has served, but no longer actively serves, as a judge of a court in the state; or

694 (B) is a licensed attorney in the state and is not, and has not been, a judge; and

695 (iii) two citizen members.

696 (b) The governor shall make appointments to the commission as follows:

697 (i) each executive branch elected official, other than the governor, shall select, and
698 provide to the governor, at least two names for potential appointment to one of the membership
699 positions described in Subsection (1)(a);

700 (ii) the governor shall determine which of the executive branch elected officials
701 described in Subsection (1)(b)(i) shall select names for which membership position;

702 (iii) the governor shall appoint to the commission one of the names provided by each
703 executive branch elected official described in Subsection (1)(b)(i);

704 (iv) the governor shall directly appoint the remaining member of the commission; and

705 (v) if an executive branch elected official fails to submit names to the governor within
706 15 days after the day on which the governor makes the determination described in Subsection
707 (1)(b)(ii), the governor shall directly appoint a person to fill the applicable membership

708 position.

709 (2) A member of the commission may not, during the member's term of office on the
710 commission, act or serve as:

711 (a) an officeholder as defined in Section [20A-11-101](#);

712 (b) an agency head as defined in Section [67-16-3](#);

713 (c) a lobbyist as defined in Section [36-11-102](#) or [36-11a-102](#);

714 (d) a principal as defined in Section [36-11-102](#) or [36-11a-102](#); or

715 (e) an employee of the state.

716 (3) (a) Except as provided in Subsection (3)(b), each member of the commission shall
717 serve a four-year term.

718 (b) The governor shall set the first term of two of the members of the commission at
719 two years, so that approximately half of the commission is appointed, or reappointed, every
720 two years.

721 (c) When a vacancy occurs in the commission's membership for any reason, the
722 governor shall appoint a replacement member for the unexpired term of the vacating member,
723 in accordance with Subsection (1).

724 (d) The governor may not appoint a member to serve more than two full terms, whether
725 those terms are two or four years.

726 (e) (i) The governor, or a majority of the commission, may remove a member from the
727 commission only for cause.

728 (ii) The governor may not remove a member from the commission during any period of
729 time when the commission is investigating or considering a complaint alleging an ethics
730 violation against the governor or lieutenant governor.

731 (f) If a commission member determines that the commission member has a conflict of
732 interest in relation to a complaint, the remaining members of the commission shall appoint an
733 individual to serve in that member's place for the purpose of reviewing that complaint.

734 (4) (a) A member of the commission may not receive compensation or benefits for the
735 member's service, but may receive per diem and expenses incurred in the performance of the
736 member's official duties at the rates established by the Division of Finance under Sections
737 [63A-3-106](#) and [63A-3-107](#).

738 (b) A member may decline to receive per diem and expenses for the member's service.

739 (5) (a) The commission members shall convene a meeting annually each January and
740 elect, by majority vote, a chair from among the commission members.

741 (b) An individual may not serve as chair for more than two consecutive years.

742 (6) The commission:

743 (a) is an independent entity established within the department for budgetary and
744 general administrative purposes only; and

745 (b) is not under the direction or control of the department, the executive director, or
746 any other officer or employee of the department.

747 Section 11. Section **63A-15-201** is amended to read:

748 **63A-15-201. Commission established -- Membership.**

749 (1) There is established a Political Subdivisions Ethics Review Commission.

750 (2) The commission is composed of seven individuals, each of whom is registered to
751 vote in this state and appointed by the governor with the advice and consent of the Senate, as
752 follows:

753 (a) one member who has served, but no longer serves, as a judge of a court of record in
754 this state;

755 (b) one member who has served as a mayor or municipal council member no more
756 recently than four years before the date of appointment;

757 (c) one member who has served as a member of a local board of education no more
758 recently than four years before the date of appointment;

759 (d) two members who are lay persons; and

760 (e) two members, each of whom is one of the following:

761 (i) a municipal mayor no more recently than four years before the date of appointment;

762 (ii) a municipal council member no more recently than four years before the date of
763 appointment;

764 (iii) a county mayor no more recently than four years before the date of appointment;

765 (iv) a county commissioner no more recently than four years before the date of
766 appointment;

767 (v) a special service district administrative control board member no more recently
768 than four years before the date of appointment;

769 (vi) a local district board of trustees member no more recently than four years before

770 the date of appointment; or

771 (vii) a judge who has served, but no longer serves, as a judge of a court of record in
772 this state.

773 (3) (a) A member of the commission may not, during the member's term of office on
774 the commission, act or serve as:

775 (i) a political subdivision officer;

776 (ii) a political subdivision employee;

777 (iii) an agency head as defined in Section [67-16-3](#);

778 (iv) a lobbyist as defined in Section [36-11-102](#) or [36-11a-102](#); or

779 (v) a principal as defined in Section [36-11-102](#) or [36-11a-102](#).

780 (b) In addition to the seven members described in Subsection (2), the governor shall,
781 with the advice and consent of the Senate, appoint one individual as an alternate member of the
782 commission who:

783 (i) may be a lay person;

784 (ii) shall be registered to vote in the state; and

785 (iii) complies with the requirements described in Subsection (3)(a).

786 (c) The alternate member described in Subsection (3)(b):

787 (i) shall serve as a member of the commission in the place of one of the seven members
788 described in Subsection (2) if that member is temporarily unable or unavailable to participate in
789 a commission function or is disqualified under Section [63A-15-303](#); and

790 (ii) may not cast a vote on the commission unless the alternate member is serving in
791 the capacity described in Subsection (3)(c)(i).

792 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission
793 shall serve a four-year term.

794 (ii) When appointing the initial members upon formation of the commission, a member
795 described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that
796 approximately half of the commission is appointed every two years.

797 (b) (i) When a vacancy occurs in the commission's membership for any reason, a
798 replacement member shall be appointed for the unexpired term of the vacating member using
799 the procedures and requirements of Subsection (2).

800 (ii) For the purposes of this section, an appointment for an unexpired term of a

801 vacating member is not considered a full term.

802 (c) A member may not be appointed to serve for more than two full terms, whether
803 those terms are two or four years.

804 (d) A member of the commission may resign from the commission by giving one
805 month's written notice of the resignation to the governor.

806 (e) The governor shall remove a member from the commission if the member:

807 (i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

808 (ii) enters a plea of no contest or a plea in abeyance to a crime involving moral

809 turpitude; or

810 (iii) fails to meet the qualifications of office as provided in this section.

811 (f) (i) If a commission member is accused of wrongdoing in a complaint, or if a

812 commission member has a conflict of interest in relation to a matter before the commission:

813 (A) the alternate member described in Subsection (3)(b) shall serve in the member's
814 place for the purposes of reviewing the complaint; or

815 (B) if the alternate member has already taken the place of another commission member
816 or is otherwise not available, the commission shall appoint another individual to temporarily
817 serve in the member's place for the purposes of reviewing the complaint.

818 (ii) An individual appointed by the commission under Subsection (4)(f)(i)(B):

819 (A) is not required to be confirmed by the Senate;

820 (B) may be a lay person;

821 (C) shall be registered to vote in the state; and

822 (D) shall comply with Subsection (3)(a).

823 (5) (a) Except as provided in Subsection (5)(b)(i), a member of the commission may
824 not receive compensation or benefits for the member's service.

825 (b) (i) A member may receive per diem and expenses incurred in the performance of
826 the member's official duties at the rates established by the Division of Finance under Sections
827 [63A-3-106](#) and [63A-3-107](#).

828 (ii) A member may decline to receive per diem and expenses for the member's service.

829 (6) The commission members shall, by a majority vote, elect a commission chair from
830 among the commission members.

831 Section 12. Section **63E-1-401** is amended to read:

832 **63E-1-401. Definitions.**

833 As used in this part:

834 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and
835 includes:

836 (a) cash, except reasonable compensation or salary for services rendered;

837 (b) stock or other investments;

838 (c) goodwill;

839 (d) real property;

840 (e) an ownership interest;

841 (f) a license;

842 (g) a cause of action; and

843 (h) any similar property.

844 (2) "Business interest" means:

845 (a) holding the position of trustee, director, officer, or other similar position with a
846 business entity; or

847 (b) the ownership, either legally or equitably, of at least 10% of the outstanding shares
848 of a corporation or 10% interest in any other business entity, being held by:

849 (i) an individual;

850 (ii) the individual's spouse;

851 (iii) a minor child of the individual; or

852 (iv) any combination of Subsections (2)(b)(i) through (iii).

853 (3) "Interested party" means a person that held or holds the position of trustee, director,
854 officer, or other similar position with an independent entity within:

855 (a) five years prior to the date of an action described in Subsection (5); or

856 (b) during the privatization of an independent entity.

857 (4) "Lobbyist" is a person that provided or provides services as a lobbyist, as defined in
858 Section [36-11-102](#) or [36-11a-102](#), within:

859 (a) five years prior to the date of an action described in Subsection (5); or

860 (b) during the privatization of an independent entity.

861 (5) (a) "Privatized" means an action described in Subsection (5)(b) taken under

862 circumstances in which the operations of the independent entity are continued by a successor

863 entity that:

864 (i) is privately owned;

865 (ii) is unaffiliated to the state; and

866 (iii) receives any asset of the independent entity.

867 (b) An action referred to in Subsection (5)(a) includes:

868 (i) the repeal of the authorizing statute of an independent entity and the revision to state
869 laws to terminate the relationship between the state and the independent entity;

870 (ii) the dissolution of the independent entity;

871 (iii) the merger or consolidation of the independent entity with another entity; or

872 (iv) the sale of all or substantially all of the assets of the independent entity.

873 Section 13. Section **63E-1-404** is amended to read:

874 **63E-1-404. Penalties for violation.**

875 (1) A person who knowingly violates this part:

876 (a) is guilty of a third degree felony if the combined value of any compensation or
877 assets received by the person as a result of the violation is equal to or greater than \$10,000; or

878 (b) is guilty of a class A misdemeanor if the combined value of any compensation or
879 assets received by the person as a result of the violation is less than \$10,000.

880 (2) (a) In addition to any penalty imposed under Subsection (1), a person that violates
881 this part shall return to the successor of the independent entity any compensation or assets
882 received in violation of this part.

883 (b) If the assets received by the person in violation of this part are no longer in the
884 possession of the person, the person shall pay the successor of the independent entity an
885 amount equal to the fair market value of the asset at the time the person received the asset.

886 (3) Notwithstanding [~~Subsection~~] Subsections 36-11-401(3) and 36-11a-301(3), if a
887 lobbyist violates Subsection 63E-1-402(2)(b)(i), the lobbyist is guilty of the crime outlined in
888 Subsection (1), which crime shall be determined by the value of compensation or assets
889 received by the lobbyist.

890 Section 14. Section **76-10-1602** is amended to read:

891 **76-10-1602. Definitions.**

892 As used in this part:

893 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,

894 business trust, association, or other legal entity, and any union or group of individuals
895 associated in fact although not a legal entity, and includes illicit as well as licit entities.

896 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
897 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
898 have the same or similar purposes, results, participants, victims, or methods of commission, or
899 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
900 demonstrate continuing unlawful conduct and be related either to each other or to the
901 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
902 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
903 activity as defined by this part shall have occurred within five years of the commission of the
904 next preceding act alleged as part of the pattern.

905 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
906 interest in property, including state, county, and local governmental entities.

907 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
908 command, encourage, or intentionally aid another person to engage in conduct which would
909 constitute any offense described by the following crimes or categories of crimes, or to attempt
910 or conspire to engage in an act which would constitute any of those offenses, regardless of
911 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
912 or a felony:

913 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
914 Recording Practices Act;

915 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
916 Code, Sections 19-1-101 through 19-7-109;

917 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
918 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources
919 Code of Utah, or Section 23-20-4;

920 (d) false claims for medical benefits, kickbacks, and any other act prohibited by Title
921 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

922 (e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal
923 Offenses and Procedure Act;

924 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform

- 925 Land Sales Practices Act;
- 926 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
927 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
928 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
929 Clandestine Drug Lab Act;
- 930 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
931 Securities Act;
- 932 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah
933 Procurement Code;
- 934 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;
- 935 (k) a threat of terrorism, Section 76-5-107.3;
- 936 (l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;
- 937 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- 938 (n) human trafficking, human smuggling, or aggravated human trafficking, Sections
939 76-5-308, 76-5-309, and 76-5-310;
- 940 (o) sexual exploitation of a minor, Section 76-5b-201;
- 941 (p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 942 (q) causing a catastrophe, Section 76-6-105;
- 943 (r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 944 (s) burglary of a vehicle, Section 76-6-204;
- 945 (t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 946 (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 947 (v) theft, Section 76-6-404;
- 948 (w) theft by deception, Section 76-6-405;
- 949 (x) theft by extortion, Section 76-6-406;
- 950 (y) receiving stolen property, Section 76-6-408;
- 951 (z) theft of services, Section 76-6-409;
- 952 (aa) forgery, Section 76-6-501;
- 953 (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and
954 76-6-506.6;
- 955 (cc) deceptive business practices, Section 76-6-507;

- 956 (dd) bribery or receiving bribe by person in the business of selection, appraisal, or
- 957 criticism of goods, Section 76-6-508;
- 958 (ee) bribery of a labor official, Section 76-6-509;
- 959 (ff) defrauding creditors, Section 76-6-511;
- 960 (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 961 (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
- 962 (ii) bribery or threat to influence contest, Section 76-6-514;
- 963 (jj) making a false credit report, Section 76-6-517;
- 964 (kk) criminal simulation, Section 76-6-518;
- 965 (ll) criminal usury, Section 76-6-520;
- 966 (mm) fraudulent insurance act, Section 76-6-521;
- 967 (nn) retail theft, Section 76-6-602;
- 968 (oo) computer crimes, Section 76-6-703;
- 969 (pp) identity fraud, Section 76-6-1102;
- 970 (qq) mortgage fraud, Section 76-6-1203;
- 971 (rr) sale of a child, Section 76-7-203;
- 972 (ss) bribery to influence official or political actions, Section 76-8-103;
- 973 (tt) threats to influence official or political action, Section 76-8-104;
- 974 (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- 975 (vv) receiving bribe or bribery for endorsement of person as public servant, Section
- 976 76-8-106;
- 977 (ww) official misconduct, Sections 76-8-201 and 76-8-202;
- 978 (xx) obstruction of justice, Section 76-8-306;
- 979 (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 980 (zz) false or inconsistent material statements, Section 76-8-502;
- 981 (aaa) false or inconsistent statements, Section 76-8-503;
- 982 (bbb) written false statements, Section 76-8-504;
- 983 (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 984 (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 985 (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 986 (fff) tampering with evidence, Section 76-8-510.5;

987 (ggg) falsification or alteration of government record, Section 76-8-511, if the record is
988 a record described in Title 20A, Election Code, [or] Title 36, Chapter 11, Lobbyist Disclosure
989 and Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education
990 Lobbyist Disclosure and Regulation Act;

991 (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
992 76-8-1205;

993 (iii) unemployment insurance fraud, Section 76-8-1301;

994 (jjj) intentionally or knowingly causing one animal to fight with another, Subsection
995 76-9-301(2)(d) or (e), or Section 76-9-301.1;

996 (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or
997 parts, Section 76-10-306;

998 (lll) delivery to common carrier, mailing, or placement on premises of an incendiary
999 device, Section 76-10-307;

1000 (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

1001 (nnn) unlawful marking of pistol or revolver, Section 76-10-521;

1002 (ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

1003 (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section
1004 76-10-1002;

1005 (qqq) selling goods under counterfeited trademark, trade name, or trade devices,
1006 Section 76-10-1003;

1007 (rrr) sales in containers bearing registered trademark of substituted articles, Section
1008 76-10-1004;

1009 (sss) selling or dealing with article bearing registered trademark or service mark with
1010 intent to defraud, Section 76-10-1006;

1011 (ttt) gambling, Section 76-10-1102;

1012 (uuu) gambling fraud, Section 76-10-1103;

1013 (vvv) gambling promotion, Section 76-10-1104;

1014 (www) possessing a gambling device or record, Section 76-10-1105;

1015 (xxx) confidence game, Section 76-10-1109;

1016 (yyy) distributing pornographic material, Section 76-10-1204;

1017 (zzz) inducing acceptance of pornographic material, Section 76-10-1205;

1018 (aaaa) dealing in harmful material to a minor, Section 76-10-1206;
1019 (bbbb) distribution of pornographic films, Section 76-10-1222;
1020 (cccc) indecent public displays, Section 76-10-1228;
1021 (dddd) prostitution, Section 76-10-1302;
1022 (eeee) aiding prostitution, Section 76-10-1304;
1023 (ffff) exploiting prostitution, Section 76-10-1305;
1024 (gggg) aggravated exploitation of prostitution, Section 76-10-1306;
1025 (hhhh) communications fraud, Section 76-10-1801;
1026 (iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and
1027 Currency Transaction Reporting Act;
1028 (jjjj) vehicle compartment for contraband, Section 76-10-2801;
1029 (kkkk) any act prohibited by the criminal provisions of the laws governing taxation in
1030 this state; and
1031 (llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C.
1032 Sec. 1961(1)(B), (C), and (D).