

HB0186S02 compared with HB0186S01

~~text~~ shows text that was in HB0186S01 but was deleted in HB0186S02.

text shows text that was not in HB0186S01 but was inserted into HB0186S02.

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Representative Douglas V. Sagers proposes the following substitute bill:

LOBBYIST AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Lobbyist Disclosure and Regulation Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes the provisions of the Lobbyist Disclosure and Regulation Act applicable to a person who lobbies a local official or an education official;
- ▶ amends rulemaking authority within the Office of the Lieutenant Governor;
- ▶ defines "foreign agent" and requires a foreign agent to register with the lieutenant governor as a foreign agent;
- ▶ makes changes to the lobbyist license application form;
- ▶ establishes requirements for a foreign agent registration form;

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- ▶ requires the name tag of a lobbyist who is a foreign agent to indicate that the lobbyist is a foreign agent;
- ▶ establishes penalties for failure to register as a foreign agent;
- ▶ amends provisions prohibiting contingent compensation for a lobbyist;
- ▶ repeals existing provisions in the Local Government and Board of Education Lobbyist Disclosure and Regulation Act, and incorporates those provisions into the Lobbyist Disclosure and Regulation Act; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 36-11-102, as last amended by Laws of Utah 2019, Chapter 363
- 36-11-103, as last amended by Laws of Utah 2019, Chapter 339
- 36-11-106, as last amended by Laws of Utah 2019, Chapter 339
- 36-11-201, as last amended by Laws of Utah 2015, Chapter 296
- 36-11-301, as enacted by Laws of Utah 1991, Chapter 280
- 36-11-304, as last amended by Laws of Utah 2015, Chapters 32 and 188
- 36-11-305.5, as enacted by Laws of Utah 2014, Chapter 335
- 36-11-401, as last amended by Laws of Utah 2019, Chapter 339
- 36-11-404, as last amended by Laws of Utah 2019, Chapter 339
- 36-11-405, as enacted by Laws of Utah 1991, Chapter 280
- 63G-23-102, as enacted by Laws of Utah 2018, Chapter 67

ENACTS:

- 36-11-103.5, Utah Code Annotated 1953

REPEALS:

- 36-11a-101, as enacted by Laws of Utah 2019, Chapter 363
- 36-11a-102, as enacted by Laws of Utah 2019, Chapter 363
- 36-11a-201, as enacted by Laws of Utah 2019, Chapter 363

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36-11a-202, as enacted by Laws of Utah 2019, Chapter 363

36-11a-203, as enacted by Laws of Utah 2019, Chapter 363

36-11a-301, as enacted by Laws of Utah 2019, Chapter 363

36-11a-302, as enacted by Laws of Utah 2019, Chapter 363

36-11a-303, as enacted by Laws of Utah 2019, Chapter 363

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

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

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

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

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

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

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

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

(ii) attendance at which is approved by:

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

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

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

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

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(3) "Board of education" means:

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

(b) the State Board of Education;

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

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

~~[(3)]~~ (4) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

~~[(4)]~~ (5) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

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

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

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

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

~~[(5)]~~ (6) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

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

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

(7) "Education action" means:

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

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

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

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

(e) a purchasing or contracting decision;

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

(g) determining a rate or fee;

(h) a decision relating to an education budget or the expenditure of public money; or

(i) making an adjudicative decision.

(8) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education, if

that individual:

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

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

(iii) determines rates or fees;

(iv) makes decisions relating to an education budget or the expenditure of public money; or

~~(iv)~~ (v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (8)(a) or (b).

~~(6)~~ (9) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

~~(7)~~ (10) "Executive action" means:

(a) a nomination or appointment by the governor;

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

(c) agency ratemaking proceedings; [or]

(d) a decision relating to a government budget or the expenditure of public money; or

~~(d)~~ (e) an adjudicative proceeding of a state agency.

~~(8)~~ (11) (a) "Expenditure" means any of the items listed in this Subsection ~~(8)~~
(11)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

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(i) a purchase, payment, or distribution;
(ii) a loan, gift, or advance;
(iii) a deposit, subscription, or forbearance;
(iv) services or goods;
(v) money;
(vi) real property;
(vii) a ticket or admission to an event; or
(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections [~~(8)~~] (11)(a)(i) through (vii).

(b) "Expenditure" does not mean:

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

(ii) a campaign contribution;

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements[;], Section 10-3-208, Section 17-16-6.5, or any applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (11)(b)(ii)(A);

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

(iv) a devise or inheritance;

(v) any item listed in Subsection [~~(8)~~] (11)(a) if:

(A) given by a relative;

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

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

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

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

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- (A) all members of the Legislature;
- (B) all members of a standing or interim committee;
- (C) all members of an official legislative task force;
- (D) all members of a party caucus; or
- (E) all members of a group described in Subsections [~~(8)~~] (11)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

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

- (A) giving a speech at the event, tour, or meeting;
- (B) participating in a panel discussion at the event, tour, or meeting; or
- (C) presenting or receiving an award at the event, tour, or meeting;

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

(A) is presented in public;

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

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official, other than a local official or an education official, accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

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

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

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(A) to solicit ~~[contributions]~~ a contribution that is reportable under~~[-(F)]~~ Title 20A, Chapter 11, Campaign and Financial Reporting Requirements~~[-or-(H)]~~, 2 U.S.C. Sec. 434~~[-or]~~, Section 10-3-208, Section 17-16-6.5, or an applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (11)(b)(xi)(A); or

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

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection ~~[(8)]~~ (11)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity; ~~[or]~~

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

(C) for a local official, that is sponsored by an organization that represents only local governments, including the Utah Association of Counties, the Utah League of Cities and Towns, or the Utah Association of Special Districts; or

(D) for an education official, that is sponsored by a public school, a charter school, or an organization that represents only public schools or charter schools, including the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

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

(A) for a public official who is not a local official or an education official, the state; or

(B) for a public official who is a local official or an education official, the local government or board of education to which the public official belongs.

~~[(9)]~~ (12) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(13) (a) "Foreign agent" means an individual who engages in lobbying ~~for~~ on behalf of or ~~under~~ the direction of contract with:

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(i) a foreign government;

(ii) an official of a foreign government;

(iii) a foreign corporation that the individual knows or has reason to know is owned or controlled by a foreign government; or

(iv) an official of a foreign corporation that the individual knows or has reason to know is owned or controlled by a foreign government.

(b) "Foreign agent" does not include an individual who:

(i) is recognized by the United States Department of State as a duly accredited diplomatic or consular officer of a foreign government; or

(ii) engages in lobbying on behalf of a foreign corporation or an official of a foreign corporation solely in the individual's capacity as a lobbyist for a trade association that:

(A) has a broad industry membership; and

(B) includes members that are foreign corporations or officials of foreign corporations.

~~[(10)]~~ (14) (a) "Government officer" means:

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

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

(iii) an individual appointed to fill a vacancy in a position described in Subsection (14)(a)(i) or (ii), when acting in the capacity of the position; or

~~[(11)]~~ (iv) an individual appointed to or employed in a full-time position by state [~~or~~] government, local government, or a board of education, when acting [~~within the scope~~] in the capacity of the individual's appointment or employment.

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

~~[(11)]~~ (15) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

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

~~[(12)]~~ (16) "Legislative action" means:

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

(b) a decision relating to a tax, a government budget, or the expenditure of public money; or

~~[(b)]~~ (c) the action of the governor in approving or vetoing legislation.

~~[(13)]~~ (17) "Lobbying" means communicating with a public official for the purpose of influencing ~~[the passage, defeat, amendment, or postponement of legislative or]~~ a legislative action, executive action, local action, or education action.

~~[(14)]~~ (18) (a) "Lobbyist" means:

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

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

(b) "Lobbyist" does not include:

(i) a government officer;

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

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

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

(v) a representative of a political party;

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

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

(viii) an individual who appears on the individual's own behalf before a committee of

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the Legislature [or], an agency of the executive branch of state government, a board of education, the governing body of a local government, a committee of a local government, or a committee of a board of education, solely for the purpose of testifying in support of [or] action, in opposition to legislative [or] action, executive action, local action, or education action; or

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

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

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

~~[(15)]~~ (19) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(20) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) a vote on an administrative action taken by a vote of a local government's

legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

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

(g) determining a rate or fee;

(h) a decision relating to a local government tax, a local government budget, or the expenditure of public money; or

(i) making an adjudicative decision.

(21) "Local government" means:

(a) a county, city, town, or metro township;

(b) a local district governed by Title 17B, Limited Purpose Local Government Entities

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(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint or cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(22) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

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

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees;

(iv) makes decisions relating to a local government tax, a local government budget, or the expenditure of public money; or

(~~iv~~)v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (22)(a) or (b).

~~(16)~~ (23) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

~~(17)~~ (24) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(25) "Owned or controlled by a foreign government" means that a foreign government has greater than a 50% ownership interest in the corporation.

~~(18)~~ (~~25~~)26) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

~~(19)~~ (~~26~~)27) "Public official" means:

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

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

(B) drafts legislation or makes rules;

(C) determines rates or fees; ~~or~~

~~(D);~~ or

(D) makes decisions relating to a tax, a government budget, or the expenditure of public money; or

~~(D)~~ (E) makes adjudicative decisions; ~~or~~

(b) an immediate family member of a person described in Subsection ~~[(19)(a):]~~

~~(26;27)~~(a);

(c) a local official; or

(d) an education official.

~~(20)~~ ~~(27;28)~~ "Public official type" means a notation to identify whether a public official is:

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

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

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection ~~[(19)]~~

~~(26;27)~~(a)(iii); ~~or~~

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection ~~[(19)]~~

~~(26;27)~~(a)(iii); ~~or~~

(v) a local official, including a description of the type of local government for which the individual is a local official; or

(vi) an education official, including a description of the type of board of education for which the individual is an education official; or

(b) an immediate family member of ~~[a person]~~ an individual described in Subsection ~~[(19)]~~ ~~(26;27)~~(a), (c), or (d).

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~~(28)~~29 "Public money" means the same as that term is defined in Section 76-1-601.

~~(21)~~ ~~(29)~~30 "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

~~(22)~~ ~~(30)~~31 "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

~~(23)~~ ~~(31)~~32 "Relative" means:

(a) a spouse~~[-]~~;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin~~[-, or spouse of any of these individuals.]; or~~

(c) a spouse of an individual described in Subsection ~~(31)~~32(b).

~~(24)~~ ~~(32)~~33 "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

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

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

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

36-11-103. Licensing requirements.

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

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

(c) The lieutenant governor shall prepare a lobbyist license application form that includes:

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

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

(A) the principal's name;

(B) the principal's business address;

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

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- (D) the general purposes, interests, and nature of the principal;
- (iii) a place for the name and address of the person who paid or will pay the lobbyist's registration fee, if the fee is not paid by the lobbyist;
- (iv) a place for the lobbyist to disclose:
 - (A) any elected or appointed position that the lobbyist holds in state or local government, if any; and
 - (B) the name of each public official that the lobbyist employs and the nature of the employment with the public official, if any;
 - (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; ~~and~~
 - (vi) a statement that an individual is required to register as a foreign agent under Section 36-11-103.5 before engaging in lobbying on behalf of:
 - (A) a foreign government or an official of a foreign government; or
 - (B) a foreign corporation, or an official of a foreign corporation, that the individual knows or has reason to know is owned or controlled by a foreign government;
 - (vii) a place for the lobbyist to indicate whether the lobbyist would like to register as a foreign agent; and
 - ~~(vii)~~ (viii) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.
- (2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.
- (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:
 - (i) files an application with the lieutenant governor that contains the information required by this section and, if applicable, Section 36-11-103.5;
 - (ii) completes the training required by Section 36-11-307; and
 - (iii) pays a \$60 filing fee.
- (b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 each year.
- (4) (a) The lieutenant governor may disapprove an application for a lobbying license:

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(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304 within one year before the date of the lobbying license application;

(iii) during the term of any suspension imposed under Section 36-11-401;

(iv) if the applicant has not complied with Subsection 36-11-307(6);

(v) during the term of a suspension imposed under Subsection 36-11-501(3);

(vi) if the lobbyist fails to pay a fine imposed under Subsection 36-11-501(3);

(vii) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

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

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

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

(5) The lieutenant governor shall deposit each license fee into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program described in this section.

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

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

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

Section 3. Section **36-11-103.5** is enacted to read:

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36-11-103.5. Registering as foreign agent.

(1) Before engaging in any lobbying as a foreign agent, a foreign agent shall register with the lieutenant governor under this section.

(2) If a lobbyist indicates on the lobbyist license application form described in Section 36-11-103, or otherwise indicates to the lieutenant governor that the lobbyist would like to register as a foreign agent, the lieutenant governor shall provide the lobbyist a foreign agent registration form that includes:

(a) a place for the lobbyist's name, address, business telephone number, and principal place of business;

(b) a place for the lobbyist to list each of the following for which the lobbyist is registering as a foreign agent:

(i) a foreign government;

(ii) an official of a foreign government;

(iii) a foreign corporation that the lobbyist knows or has reason to know is owned or controlled by a foreign government; or

(iv) an official of a foreign corporation that the lobbyist knows or has reason to know is owned or controlled by a foreign government;

(c) a place for the lobbyist to describe the issues on which the lobbyist expects to engage in lobbying as a foreign agent; and

(d) a certification for the lobbyist to sign, certifying that the information the lobbyist provided in the form is true, accurate, and complete.

(3) (a) A lobbyist who registers as a foreign agent under this section shall update the information in the lobbyist's foreign agent registration form when the lobbyist agrees to lobby on behalf of any of the following that are not listed in the lobbyist's foreign agent registration form:

(i) a foreign government;

(ii) an official of a foreign government;

(iii) a foreign corporation that the lobbyist knows or has reason to know is owned or controlled by a foreign government; or

(iv) an official of a foreign corporation that the lobbyist knows or has reason to know is owned or controlled by a foreign government.

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(b) A lobbyist may not lobby on behalf of a person described in Subsections (3)(a)(i) through (iv) that is not listed in the lobbyist's foreign agent registration form.

Section 4. Section **36-11-106** is amended to read:

36-11-106. Financial reports are public documents.

(1) Any person may:

(a) without charge, inspect a lobbyist license application, foreign agent registration form, or financial report filed with the lieutenant governor in accordance with this chapter; and

(b) make a copy of [~~a~~] an application, form, or financial report described in Subsection (1)(a) after paying for the actual costs of the copy.

(2) The lieutenant governor shall make financial reports filed in accordance with this chapter available for viewing on the Internet at the lieutenant governor's website within seven calendar days after the day on which the report is received by the lieutenant governor.

Section 5. Section **36-11-201** is amended to read:

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

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a lobbyist shall file financial reports with the lieutenant governor on or before the due dates specified in Subsection (2).

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

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

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

(c) ~~{A government officer}~~(i) As used in this Subsection (1)(c), "same local government type" means:

(A) for a county government, the same county government or another county government;

(B) for a municipal government, the same municipal government or another municipal

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government;

(C) for a board of education, the same board of education;

(D) for a local school board described in Title 53G, Chapter 4, School Districts, the same local school board or another local school board;

(E) for a local district, the same local district or another local district or a special service district; or

(F) for a special service district, the same special service district or another special service district or a local district.

(ii) A local official or an education official is not required, under this section, to report an expenditure made by the {government officer to another government officer if:

—— (i) the government officer making the expenditure is a county government officer and the government officer receiving the expenditure is also a county government officer, regardless of whether the government officers are from the same county;

—— (ii) the government officer making the expenditure is a municipal government officer and the individual receiving the expenditure is also a municipal government officer, regardless of whether the government officers are from the same municipality; or

—— (iii) the government officer making the expenditure is a local government officer and the individual receiving the expenditure is a local government officer in} local official or education official to another local official or education official of the same local government {or in the same }type {of} as the local {government in another jurisdiction} official or education official making the expenditure.

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

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

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

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

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

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

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

(3) A financial report shall contain:

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- (a) the total amount of expenditures made to benefit any public official during the quarterly reporting period;
- (b) the total amount of expenditures made, by the type of public official, during the quarterly reporting period;
- (c) for the financial report due on January 10:
 - (i) the total amount of expenditures made to benefit any public official during the last calendar year; and
 - (ii) the total amount of expenditures made, by the type of public official, during the last calendar year;
- (d) a disclosure of each expenditure made during the quarterly reporting period to reimburse or pay for travel or lodging for a public official, including:
 - (i) each travel destination and each lodging location;
 - (ii) the name of each public official who benefitted from the expenditure on travel or lodging;
 - (iii) the public official type of each public official named;
 - (iv) for each public official named, a listing of the amount and purpose of each expenditure made for travel or lodging; and
 - (v) the total amount of expenditures listed under Subsection (3)(d)(iv);
- (e) a disclosure of aggregate daily expenditures greater than \$10 made during the quarterly reporting period including:
 - (i) the date and purpose of the expenditure;
 - (ii) the location of the expenditure;
 - (iii) the name of any public official benefitted by the expenditure;
 - (iv) the type of the public official benefitted by the expenditure; and
 - (v) the total monetary worth of the benefit that the expenditure conferred on any public official;
- (f) for each public official who was employed by the lobbyist, principal, or government officer, a list that provides:
 - (i) the name of the public official; and
 - (ii) the nature of the employment with the public official;
 - (g) each bill or resolution, by number and short title, on behalf of which the lobbyist,

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principal, or government officer made an expenditure to a public official;

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

(i) a description of each local action or education action regarding which the lobbyist, principal, or government officer made an expenditure to a local official or education official;

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

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

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

(5) The lieutenant governor shall:

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

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

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

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

~~(i) states:~~

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

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

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

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

(iv) states that the lobbyist or principal will not make any additional expenditure that is not disclosed on the statement unless the lobbyist or principal complies with the disclosure and

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licensing requirements of this chapter.

(b) Except as provided in Subsection (1)(a)(ii), a [~~person that fails to renew the lobbyist's license or otherwise ceases to be licensed~~] lobbyist or principal that is required to file a financial report under this section is required to file the report quarterly until the [~~person~~] lobbyist or principal files the statement required by Subsection (6)(a).

Section 6. Section **36-11-301** is amended to read:

36-11-301. Contingent compensation prohibited.

(1) A person may not employ, or solicit another person to serve, as a lobbyist for compensation contingent in whole or part upon:

- (a) the passage, defeat, or amendment of legislative action [~~or~~];
- (b) the approval, modification, or denial of [~~a certain~~] executive action[~~;~~];
- (c) the passage, defeat, denial, modification, or a certain outcome of a local action; or
- (d) the passage, defeat, denial, modification, or a certain outcome of an education

action.

(2) A person may not accept employment as, or otherwise agree with another person to serve as, a lobbyist for compensaton contingent in whole or in part upon:

- (a) the passage, defeat, or amendment of legislative action;
- (b) the approval, modification, or denial of executive action;
- (c) the passage, defeat, denial, modification, or a certain outcome of a local action; or
- (d) the passage, defeat, denial, modification, or a certain outcome of an education

action.

Section 7. Section **36-11-304** is amended to read:

36-11-304. Expenditures over certain amounts prohibited -- Exceptions.

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

- (a) for food or beverage, the food reimbursement rate; or
- (b) \$10 for expenditures other than food or beverage.

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

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

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- (i) food;
- (ii) beverage;
- (iii) travel;
- (iv) lodging; or
- (v) admission to or attendance at a tour or meeting that is not an approved activity; or
- (b) if the expenditure is made for a purpose solely unrelated to the public official's position as a public official.

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

(A) for a county government, the same county government or another county government;

(B) for a municipal government, the same municipal government or another municipal government;

(C) for a board of education, the same board of education;

(D) for a local school board described in Title 53G, Chapter 4, School Districts, the same local school board or another local school board;

(E) for a local district, the same local district or another local district or a special service district; or

(F) for a special service district, the same special service district or another special service district or a local district.

(b) This section does not apply to an expenditure made by a ~~government officer to another government officer if:~~

~~—— (a) the government officer making the expenditure is a county government officer and the government officer receiving the expenditure is also a county government officer, regardless of whether the government officers are from the same county;~~

~~—— (b) the government officer making the expenditure is a municipal government officer and the individual receiving the expenditure is also a municipal government officer, regardless of whether the government officers are from the same municipality; or~~

~~—— (c) the government officer making the expenditure is a local government officer and the individual receiving the expenditure is a local government officer in } local official or an education official to another local official or education official of the same local government {or in the same } type {of} as the local {government in another jurisdiction} official or education~~

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official making the expenditure.

Section 8. Section **36-11-305.5** is amended to read:

36-11-305.5. Lobbyist requirements.

(1) The lieutenant governor shall issue to each lobbyist a name tag that includes:

(a) the word "Lobbyist" in at least 18-point type; [~~and~~]

(b) the first and last name of the lobbyist, in at least 18-point type[~~;~~]; and

(c) if the lobbyist is registered as a foreign agent under Section 36-11-103.5, the words "Registered Foreign Agent" in at least 14-point type.

(2) [~~Beginning on August 1, 2014, a~~] A lobbyist may not lobby a public official while the lobbyist is at the capitol hill complex unless the lobbyist is wearing the name tag described in Subsection (1), with the information described in Subsection (1) in plain view.

(3) A lobbyist shall, at the beginning of making a communication to a public official that constitutes lobbying, inform the public official of the identity of the principal on whose behalf the lobbyist is lobbying.

Section 9. Section **36-11-401** is amended to read:

36-11-401. Penalties.

(1) Any person who intentionally violates Section 36-11-103, 36-11-103.5, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403, is subject to the following penalties:

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

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

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

(ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

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

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

(b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

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(3) Any person who intentionally fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to \$50 per day for each day that the report is late.

(4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104 or 76-8-304, the lieutenant governor shall suspend a lobbyist's license for up to one year from the date of conviction.

(5) (a) ~~[Any]~~ Except as provided in Subsection (5)(b), a person who intentionally violates Section 36-11-301, 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

(b) A person who intentionally violates Section 36-11-301 is guilty of a third degree felony if the person knows, or reasonably should have known, that all or part of the compensation is public money.

~~[(b)]~~ (c) The lieutenant governor shall suspend the lobbyist license of any person convicted under any of these sections for up to one year.

~~[(c)]~~ (d) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

~~[(d)]~~ (e) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

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

Section 10. Section **36-11-404** is amended to read:

36-11-404. Lieutenant governor's procedures.

(1) Except as otherwise provided under Section 36-11-501, the director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that provide:

(a) for the appointment of an administrative law judge to adjudicate alleged violations of this chapter and to impose penalties under this chapter;

(b) procedures for license applications, disapprovals, suspensions, revocations, and reinstatements that comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

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(2) The lieutenant governor shall develop forms needed for the registration and disclosure provisions described in this chapter.

Section 11. Section **36-11-405** is amended to read:

36-11-405. Construction and interpretation -- Freedom of expression, participation, and press.

(1) No provision of this chapter may be construed~~[, interpreted, or enforced so as to limit, impair, abridge, or destroy any]~~ in a manner that limits:

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

(b) freedom of the press.

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

Section 12. Section **63G-23-102** is amended to read:

63G-23-102. Definitions.

As used in this chapter:

(1) "Public official" means, except as provided in Subsection (3), the same as that term is defined in Section 36-11-102.

(2) "Public official" includes a judge or justice of:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals; or

(c) a district court.

(3) "Public official" does not include a local official or an education official as defined in Section 36-11-102.

Section 13. Repealer.

This bill repeals:

Section 36-11a-101, Title.

Section 36-11a-102, Definitions.

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

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Section 36-11a-202, Expenditures over certain amounts prohibited -- Exceptions.

Section 36-11a-203, Disposal of publications.

Section 36-11a-301, Penalties.

Section 36-11a-302, Lieutenant governor's procedures.

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