

SENATE BILL No. 289

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-2.2-5-5; IC 2-7.

Synopsis: Legislative ethics. Provides that a lobbyist and certain persons associated with state educational institutions may not give a gift to a legislative person with certain stated exceptions. Requires a lobbyist who communicates with certain legislative persons to make a log of the communication. Requires a lobbyist to submit a copy of the communications log electronically to the lobby registration commission ("commission") on a weekly basis. Requires a lobbyist to maintain a copy of written communications and an archived copy of certain electronic communications for four years. Provides that upon the request of the commission, a lobbyist shall provide the commission with an electronic copy of a communication that is required to be maintained or archived. Requires the commission to provide an electronic copy of any of those communications to any person who makes a request to inspect the communication. Repeals superseded statutes. Makes conforming changes.

Effective: January 1, 2018.

Delph

January 9, 2017, read first time and referred to Committee on Rules and Legislative Procedure.



First Regular Session 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

SENATE BILL No. 289

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 2-2.2-5-5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2018]: **Sec. 5. (a) The definitions in IC 2-7-1 apply in**
4 **this section.**

5 **(b) IC 2-7-5-8 applies to the receipt of gifts from a lobbyist by a**
6 **legislative person.**

7 **(c) A legislative person who knowingly or intentionally accepts**
8 **a gift in violation of IC 2-7-5-8 is subject to the following:**

9 **(1) Section 1 of this chapter if the legislative person is a**
10 **member of the general assembly.**

11 **(2) Discipline according to the rules of the house of**
12 **representatives, the senate, or agency of the legislative branch**
13 **applicable to the legislative person if the legislative person is**
14 **not a member of the general assembly.**

15 SECTION 2. IC 2-7-1-4, AS AMENDED BY P.L.58-2010,
16 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JANUARY 1, 2018]: **Sec. 4. (a) "Gift" means the voluntary transfer,**



1 **without consideration, of anything of any property that has value.**
 2 ~~without consideration.~~

3 **(b) The term includes the following:**

4 **(1) A ticket to an athletic event.**

5 **(2) A transfer of property that may be classified for tax**
 6 **purposes as entertainment.**

7 ~~(b)~~ **(c) The term does not include any of the following:**

8 **(1) A contribution (as defined in IC 3-5-2-15).**

9 **(2) Items provided under a statute or from a state agency for**
 10 **redistribution to constituents.**

11 **(3) Items provided during the performance of official duties**
 12 **by a legislative person, including the legislative person's**
 13 **service as a member of, or participant in, any of the following:**

14 **(A) The legislative council.**

15 **(B) The budget committee.**

16 **(C) A standing or other committee established by the rules**
 17 **of the house of representatives or the senate.**

18 **(D) A study committee established by statute or by the**
 19 **legislative council.**

20 **(E) A statutory board or commission.**

21 **(4) A scholarship, student employment, or other financial aid**
 22 **granted to an individual for attendance at a state educational**
 23 **institution.**

24 SECTION 3. IC 2-7-2-3, AS AMENDED BY P.L.123-2015,
 25 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JANUARY 1, 2018]: Sec. 3. The registration statement of each lobbyist
 27 who is compensated for lobbying must include the following:

28 (1) The name, Social Security number, residence address and
 29 telephone number, and business address and telephone number of
 30 the lobbyist.

31 (2) The name, business address, telephone number, and kind of
 32 business of each person (including the names of each officer or
 33 partner) who compensates the lobbyist **for lobbying services.**

34 (3) The lobbyist's primary occupation and the name or names of
 35 the lobbyist's employers if different than those specified in
 36 subdivision (2). **For purposes of this subdivision, if the lobbyist**
 37 **is a partner or officer of a firm or other business organization**
 38 **through which the lobbying services are engaged, the firm or**
 39 **other business organization is considered an employer.**

40 (4) The subject matter of the lobbyist's lobbying.

41 (5) The name of any member who is a relative of the lobbyist.

42 SECTION 4. IC 2-7-3-3, AS AMENDED BY P.L.123-2015,



1 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JANUARY 1, 2018]: Sec. 3. (a) The activity reports of each lobbyist
3 shall include the following information:

4 (1) A complete and current statement of the information required
5 to be supplied under IC 2-7-2-3 and IC 2-7-2-4.

6 (2) Total expenditures on lobbying (prorated, if necessary) broken
7 down to include at least the following categories:

8 (A) Compensation to others who perform lobbying services.

9 (B) Reimbursement to others who perform lobbying services.

10 (C) Receptions.

11 ~~(D) Entertainment, including meals.~~

12 ~~(E) Gifts made to a legislative person.~~

13 ~~(3) Subject to section 3-5 of this chapter, a statement of each:~~

14 ~~(A) expenditure for entertainment (including meals and drink);~~

15 ~~or~~

16 ~~(B) gift;~~

17 ~~that equals fifty dollars (\$50) or more in one (1) day; or~~
18 ~~expenditures for entertainment (including meals and drink) or~~
19 ~~gifts that together total more than two hundred fifty dollars (\$250)~~
20 ~~during the reporting year; if the expenditures and gifts are made~~
21 ~~by the lobbyist or the lobbyist's agent to benefit a specific~~
22 ~~legislative person.~~

23 ~~(4) (3) A list of the general subject matter of each bill or~~
24 ~~resolution concerning which a lobbying effort was made within~~
25 ~~the registration period.~~

26 ~~(5) (4) The name of each member of the general assembly from~~
27 ~~whom the lobbyist has received an affidavit required under~~
28 ~~IC 2-2.2-2-8.~~

29 (b) In the second semiannual report, when total amounts are
30 required to be reported, totals shall be stated both for the period
31 covered by the statement and for the entire reporting year.

32 (c) An amount reported under this section is not required to include
33 the following:

34 (1) Overhead costs.

35 (2) Charges for any of the following:

36 (A) Postage.

37 (B) Express mail service.

38 (C) Stationery.

39 (D) Facsimile transmissions.

40 (E) Telephone calls.

41 (F) Electronic communications.

42 (3) Expenditures for the personal services of clerical and other



1 support staff persons who are not lobbyists.

2 (4) Expenditures for leasing or renting an office.

3 (5) Expenditures for lodging, meals, and other personal expenses
4 of the lobbyist.

5 (d) A report of an expenditure under subsection (a)(3) must state the
6 following information:

7 (1) The name of the lobbyist making the expenditure.

8 (2) A description of the expenditure.

9 (3) The amount of the expenditure.

10 SECTION 5. IC 2-7-3-3.3 IS REPEALED [EFFECTIVE JANUARY
11 1, 2018]. Sec. 3-3: (a) This section does not apply to gifts made
12 between relatives:

13 (b) A lobbyist shall file a written report whenever the lobbyist
14 makes a gift with respect to a legislative person that is required to be
15 included in a report under section 3(a)(3) of this chapter:

16 (e) A report under this section must state the following:

17 (1) The name of the lobbyist making the gift.

18 (2) A description of the gift.

19 (3) The amount of the gift.

20 (d) A lobbyist shall file a copy of a report required by this section
21 with the commission and the legislative person with respect to whom
22 the report is made:

23 (e) A lobbyist shall file a report required by this section not later
24 than fifteen (15) business days after making the gift. A report filed
25 under this section is confidential and is not available for public
26 inspection or copying until ten (10) business days after the report is
27 filed with the commission:

28 (f) After the expiration of the confidentiality period prescribed in
29 subsection (e), the commission shall provide a copy of a gift report to
30 the following:

31 (1) The principal clerk of the house of representatives, if the
32 legislative person is a member of, or a candidate for election to,
33 the house of representatives:

34 (2) The secretary of the senate, if the legislative person is a
35 member of, or candidate for election to, the senate:

36 (g) Subject to subsections (h) and (i), the commission shall impose
37 a late report fee of not more than one hundred dollars (\$100) per day
38 for each day after the deadline until the report is filed:

39 (h) The late report fee shall not exceed four thousand five hundred
40 dollars (\$4,500):

41 (i) The commission may waive all or part of the late report fee if the
42 commission determines that the circumstances make imposition of the



1 fee inappropriate:

2 SECTION 6. IC 2-7-3-3.5, AS AMENDED BY P.L.123-2015,
3 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2018]: Sec. 3.5. (a) If an expenditure for entertainment
5 (including meals and drink) or a gift can clearly and reasonably be
6 attributed to a particular legislative person, the expenditure must be
7 reported with respect to that particular legislative person.

8 (b) A report of an expenditure with respect to a particular legislative
9 person:

10 (1) must report actual amounts; and

11 (2) may not allocate to the particular legislative person a prorated
12 amount derived from an expense made with respect to several
13 legislative persons;

14 to the extent practicable:

15 (c) (a) An activity report must report expenditures for a function or
16 activity to which all the members of a legislative body are invited.
17 Expenditures reported for a function or activity described in this
18 subsection may not be allocated and reported with respect to a
19 particular legislative person.

20 (d) (b) If two (2) or more lobbyists contribute to an expenditure,
21 each lobbyist shall report the actual amount the lobbyist contributed to
22 the expenditure. For purposes of reporting such an expenditure, the
23 following apply:

24 (1) For purposes of determining whether the expenditure is
25 reportable, the total amount of the expenditure with respect to a
26 particular legislative person must be determined and not the
27 amount that each lobbyist contributed to that expenditure.

28 (2) Each lobbyist shall report the actual amount the lobbyist
29 contributed to the expenditure, even if that amount would not
30 have been reportable under this section if only one (1) lobbyist
31 made an expenditure of that amount.

32 (e) The report of an expenditure with respect to a particular
33 legislative person may not include any amount that the particular
34 legislative person contributed to the expenditure:

35 (f) An activity report may not report expenditures or gifts relating
36 to property or services received by a legislative person if the legislative
37 person paid for the property or services the amount that would be
38 charged to any purchaser of the property or services in the ordinary
39 course of business:

40 (g) An activity report may not report expenditures or gifts made
41 between relatives unless the expenditure or gift is made in connection
42 with a legislative action:



1 (h) An activity report may not report expenditures or gifts relating
 2 to the performance of a legislative person's official duties, including the
 3 legislative person's service as a member of any of the following:

4 (1) The legislative council.

5 (2) The budget committee.

6 (3) A standing or other committee established by the rules of the
 7 house of representatives or the senate.

8 (4) A study committee established by statute or by the legislative
 9 council.

10 (5) A statutory board or commission.

11 (i) (c) An activity report may not report a contribution (as defined
 12 in IC 3-5-2-15).

13 SECTION 7. IC 2-7-3-8 IS ADDED TO THE INDIANA CODE AS
 14 A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 15 **JANUARY 1, 2018]: Sec. 8. (a) As used in this section, "affected**
 16 **individual" refers only to the following:**

17 (1) A member of the general assembly.

18 (2) An employee of the house of representatives.

19 (3) An employee of the senate.

20 **The term does not include an employee of the legislative services**
 21 **agency, the lobby registration commission, or any other employee**
 22 **of the legislative branch.**

23 (b) As used in this section, "communication" refers to a
 24 communication between a lobbyist and a particular affected
 25 individual about a legislative matter, by any of the following
 26 means:

27 (1) In person.

28 (2) By a writing delivered by United States mail, a private
 29 courier service, or fax.

30 (3) By a telephone conversation.

31 (4) By electronic mail.

32 (5) By text messaging.

33 (6) On social media.

34 **The term does not include a communication that is directed to the**
 35 **general public, a defined subgroup of the general public, or a**
 36 **publicly communicated message to a group or defined subgroup of**
 37 **legislative persons.**

38 (c) A lobbyist must keep a log of all communications. The log
 39 must contain the following information:

40 (1) The date of the communication.

41 (2) The approximate time of the communication.

42 (3) The name of the affected individual with whom the



- 1 lobbyist communicated.
- 2 (4) The means by which the communication was carried out.
- 3 A log entry that uses a means of communication described in
- 4 subsection (b) satisfies the requirements of this subdivision.
- 5 (5) A general description of the topic of the communication.
- 6 (d) A lobbyist shall file the log electronically with the
- 7 commission not later than 9:00 a.m. (Indianapolis time) on each
- 8 Monday. If a lobbyist has not made any communications required
- 9 to be logged under subsection (c), the lobbyist shall report that fact.
- 10 (e) A lobbyist shall maintain a copy of a communication as
- 11 follows:
- 12 (1) If the communication is a written communication, by an
- 13 electronic copy, for four (4) years after the date the
- 14 communication was dated or written.
- 15 (2) If the communication is an electronic communication of
- 16 the kind that can be archived or otherwise saved for
- 17 transmission, the communication must be maintained in an
- 18 archive for four (4) years after the date the communication is
- 19 sent to the affected person.
- 20 (3) If the communication is a telephone conversation or an
- 21 electronic communication that is not subject to being archived
- 22 under current technology ordinarily used, the communication
- 23 is not required to be maintained, other than as required under
- 24 subsection (c)(5).
- 25 (f) At the request of the commission, a lobbyist who has logged
- 26 a communication shall electronically transmit a copy of the
- 27 communication maintained under subsection (e) (if the
- 28 communication is required to be maintained under subsection (e))
- 29 to the commission.
- 30 (g) Any person may request a copy of a communication required
- 31 to be maintained under subsection (e). To request a copy of a
- 32 communication, the person must identify the communication by the
- 33 log entry of the communication. The commission shall make the
- 34 copy of the communication available electronically to the person
- 35 who has requested to inspect the communication. IC 5-14-3 does
- 36 not apply to communications covered by this section.
- 37 (h) The commission shall establish a page on its Internet web
- 38 site where the communications log described in subsection (c) may
- 39 be sent. The commission shall maintain the communications logs
- 40 required to be submitted under this section on the commission's
- 41 Internet web site for public inspection. The Internet web site must
- 42 be searchable by at least the following categories:



1 (1) By lobbyist.

2 (2) By persons who engage the service of a lobbyist as
3 described in IC 2-7-2-3(2).

4 (3) By employers of the lobbyist as described in IC 2-7-2-3(3).

5 (4) By affected individual.

6 (5) By date.

7 (6) By other categories the commission considers relevant.

8 SECTION 8. IC 2-7-3.5-2 IS REPEALED [EFFECTIVE JANUARY
9 1, 2018]. Sec. 2: As used in this chapter, "reportable expenditure"
10 refers to an expenditure:

11 (1) that is made by:

12 (A) a state educational institution;

13 (B) an affiliated entity of a state educational institution; or

14 (C) an employee of:

15 (i) a state educational institution; or

16 (ii) an affiliated entity of the state educational institution;

17 that is reimbursed by the state educational institution or by an
18 affiliated entity of the state educational institution;

19 (2) made for lobbying activities; and

20 (3) of a kind reportable under IC 2-7-3-3(a)(3) by a lobbyist.

21 SECTION 9. IC 2-7-3.5-4 IS REPEALED [EFFECTIVE JANUARY
22 1, 2018]. Sec. 4: (a) Each state educational institution shall annually
23 file a report of all reportable expenditures:

24 (b) A report required by this chapter must:

25 (1) be filed with the commission not later than November 30 of
26 each year; and

27 (2) cover the period from November 1 of the previous year
28 through October 31 of the year in which the report is filed.

29 (c) The first report required by this chapter must:

30 (1) be filed with the commission not later than November 30;
31 2015; and

32 (2) cover the period from November 1, 2014, through October 31,
33 2015.

34 SECTION 10. IC 2-7-3.5-5 IS REPEALED [EFFECTIVE
35 JANUARY 1, 2018]. Sec. 5: If a state educational institution has no
36 reportable expenditures, a statement of that fact is required and is
37 sufficient to comply with the reporting requirements of this chapter.

38 SECTION 11. IC 2-7-3.5-6 IS REPEALED [EFFECTIVE
39 JANUARY 1, 2018]. Sec. 6: (a) Subject to subsections (b) and (c), the
40 commission shall impose a late report fee of not more than one hundred
41 dollars (\$100) per day for each day after the deadline until the report
42 is filed:



1 (b) The late report fee shall not exceed four thousand five hundred
2 dollars (\$4,500).

3 (c) The commission may waive all or part of the late report fee if the
4 commission determines that the circumstances make imposition of the
5 fee inappropriate.

6 SECTION 12. IC 2-7-3.5-7 IS REPEALED [EFFECTIVE
7 JANUARY 1, 2018]. Sec. 7. (a) The commission shall post reports
8 received under this chapter on the commission's Internet web site.

9 (b) If the commission does not receive a report from a state
10 educational institution under this chapter, the commission shall notify
11 the state educational institution and post a copy of the notice on the
12 commission's Internet web site.

13 SECTION 13. IC 2-7-3.5-8 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
15 JANUARY 1, 2018]: Sec. 8. **IC 2-7-5-8 governs the giving of gifts by
16 any of the following to a legislative person:**

17 (1) **A state educational institution.**

18 (2) **An affiliated entity of a state educational institution.**

19 (3) **An employee of:**

20 (A) **a state educational institution; or**

21 (B) **an affiliated entity of the state educational institution.**

22 SECTION 14. IC 2-7-5-8, AS AMENDED BY P.L.123-2015,
23 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JANUARY 1, 2018]: Sec. 8. (a) This section does not apply to gifts
25 made between relatives, **unless the gift is made in connection with a
26 legislative action.**

27 (b) **A lobbyist** The following may not make a gift with a value of
28 fifty dollars (\$50) or more to a legislative person: **unless the lobbyist**
29 **receives the consent of the legislative person before the gift is made.**
30 **The lobbyist must inform the particular legislative person of the cost of**
31 **the gift at the time the lobbyist seeks the consent of the legislative**
32 **person.**

33 (1) **A lobbyist.**

34 (2) **A person described in IC 2-7-3.5-8.**

35 SECTION 15. IC 2-7-6-2, AS AMENDED BY P.L.149-2016,
36 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JANUARY 1, 2018]: Sec. 2. (a) This section does not apply to failure
38 to file a report or statement under IC 2-7-2-1, IC 2-7-3-1, ~~IC 2-7-3-3.3;~~
39 or IC 2-7-3-7 if the person failing to file the report or statement files a
40 late report or statement not more than ten (10) business days after the
41 commission notifies the person by certified mail, return receipt
42 requested, that the person did not file a timely report or statement.



1 (b) Any person who knowingly or intentionally violates any
 2 provision of IC 2-7-2, IC 2-7-3, or IC 2-7-5 commits unlawful
 3 lobbying, a Level 6 felony. In addition to any penalty imposed on the
 4 defendant under IC 35-50-2-7 for unlawful lobbying, the court may
 5 order the defendant not to engage in lobbying for a period of up to ten
 6 (10) years, IC 2-7-5-6 notwithstanding.

7 (c) Any person who lobbies in contravention of a court order under
 8 subsection (b) commits a Level 6 felony.

9 SECTION 16. IC 2-7-6-6, AS AMENDED BY P.L.58-2010,
 10 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JANUARY 1, 2018]: Sec. 6. (a) The commission may impose either or
 12 both of the following sanctions if, after a hearing under IC 4-21.5-3, the
 13 commission finds that a lobbyist failed to file a report with a legislative
 14 person required by ~~IC 2-7-3-3.3~~ or IC 2-7-3-7:

15 (1) Revoke the registration of the lobbyist.

16 (2) Assess a civil penalty against the lobbyist. A civil penalty
 17 assessed under this subdivision may not be more than five
 18 hundred dollars (\$500).

19 (b) In imposing sanctions under subsection (a), the commission
 20 shall consider the following:

21 (1) Whether the failure to file the report was willful or negligent.

22 (2) Any mitigating circumstances.

