

1 **LOBBYIST DISCLOSURE AND REGULATION ACT**

2 **REVISIONS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis S. Bramble**

6 House Sponsor: Brad L. Dee

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Lobbyist Disclosure and Regulation Act to amend definitions.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ amends the definition of "approved meeting or activity" to include certain meetings
14 or activities approved by the governor or lieutenant governor for a public official
15 who holds a position in the executive branch;

16 ▶ amends the definition of "expenditure" to include admission to or attendance at
17 certain events or travel to certain events; and

18 ▶ makes technical and conforming changes.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **36-11-102**, as last amended by Laws of Utah 2010, Chapter 325

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

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

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

30 As used in this chapter:

31 (1) "Aggregate daily expenditures" means:

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

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

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

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

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

43 [~~(b)~~] (ii) attendance at which is approved by:

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

46 [~~(ii)~~] (B) the president of the Senate, if the public official is a member of the Senate[-];

47 or

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

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

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

54 (b) "Compensation" includes:

55 (i) a salary or commission;

56 (ii) a bonus;

57 (iii) a benefit;

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

86 any item listed in Subsections (6)(a)(i) through (vii).

87 (b) "Expenditure" does not mean:

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

89 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,

90 Campaign and Financial Reporting Requirements;

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

92 official duties;

93 (iv) a devise or inheritance;

94 (v) any item listed in Subsection (6)(a) if:

95 (A) given by a relative;

96 (B) given by a compensation payor for a purpose solely unrelated to the public

97 official's position as a public official; or

98 (C) (I) the item has a value of less than \$10; and

99 (II) the aggregate daily expenditures do not exceed \$10;

100 (vi) food or beverage that is provided at an event to which the following are invited:

101 (A) all members of the Legislature;

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

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

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

105 (E) all members of a group described in Subsections (6)(b)(vi)(A) through (D) who are

106 attending a meeting of a national organization whose primary purpose is addressing general

107 legislative policy;

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

109 (A) giving a speech at the event;

110 (B) participating in a panel discussion at the event; or

111 (C) presenting or receiving an award at the event;

112 (viii) a plaque, commendation, or award presented in public and having a cash value

113 not exceeding \$50;

- 114 (ix) admission to or attendance at an event, the primary purpose of which is:
- 115 (A) to solicit contributions reportable under:
- 116 (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or
- 117 (II) 2 U.S.C. Sec. 434; or
- 118 (B) charitable solicitation, as defined in Section 13-22-2;
- 119 (x) travel to, lodging at, food or beverage served at, and admission to an approved
- 120 meeting or activity; [~~or~~]
- 121 (xi) sponsorship of an official event or official entertainment of an approved meeting
- 122 or activity[~~;~~];
- 123 (xii) notwithstanding Subsection (6)(a)(vii), admission to or attendance at an event:
- 124 (A) that is sponsored by a governmental entity; or
- 125 (B) that is widely attended and related to a governmental duty of a public official; or
- 126 (xiii) travel to a widely attended event related to a governmental duty of a public
- 127 official if that travel results in a financial savings to the state.
- 128 (7) (a) "Government officer" means:
- 129 (i) an individual elected to a position in state or local government, when acting within
- 130 the government officer's official capacity; or
- 131 (ii) an individual appointed to or employed in a full-time position by state or local
- 132 government, when acting within the scope of the individual's employment.
- 133 (b) "Government officer" does not mean a member of the legislative branch of state
- 134 government.
- 135 (8) "Immediate family" means:
- 136 (a) a spouse;
- 137 (b) a child residing in the household; or
- 138 (c) an individual claimed as a dependent for tax purposes.
- 139 (9) "Legislative action" means:
- 140 (a) a bill, resolution, amendment, nomination, veto override, or other matter pending or
- 141 proposed in either house of the Legislature or its committees or requested by a legislator; and

- 142 (b) the action of the governor in approving or vetoing legislation.
- 143 (10) "Lobbying" means communicating with a public official for the purpose of
- 144 influencing the passage, defeat, amendment, or postponement of legislative or executive action.
- 145 (11) (a) "Lobbyist" means:
- 146 (i) an individual who is employed by a principal; or
- 147 (ii) an individual who contracts for economic consideration, other than reimbursement
- 148 for reasonable travel expenses, with a principal to lobby a public official.
- 149 (b) "Lobbyist" does not include:
- 150 (i) a government officer;
- 151 (ii) a member or employee of the legislative branch of state government;
- 152 (iii) a person while appearing at, or providing written comments to, a hearing
- 153 conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or
- 154 Title 63G, Chapter 4, Administrative Procedures Act;
- 155 (iv) a person participating on or appearing before an advisory or study task force,
- 156 commission, board, or committee, constituted by the Legislature or any agency or department
- 157 of state government, except legislative standing, appropriation, or interim committees;
- 158 (v) a representative of a political party;
- 159 (vi) an individual representing a bona fide church solely for the purpose of protecting
- 160 the right to practice the religious doctrines of the church, unless the individual or church makes
- 161 an expenditure that confers a benefit on a public official;
- 162 (vii) a newspaper, television station or network, radio station or network, periodical of
- 163 general circulation, or book publisher for the purpose of publishing news items, editorials,
- 164 other comments, or paid advertisements that directly or indirectly urge legislative or executive
- 165 action; or
- 166 (viii) an individual who appears on the individual's own behalf before a committee of
- 167 the Legislature or an agency of the executive branch of state government solely for the purpose
- 168 of testifying in support of or in opposition to legislative or executive action.
- 169 (12) "Lobbyist group" means two or more lobbyists, principals, government officers, or

170 any combination of lobbyists, principals, and officers who each contribute a portion of an
171 expenditure made to benefit a public official or member of the public official's immediate
172 family.

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

177 (14) "Principal" means a person that employs an individual to perform lobbying, either
178 as an employee or as an independent contractor.

179 (15) "Public official" means:

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

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

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

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

185 (B) drafts legislation or makes rules;

186 (C) determines rates or fees; or

187 (D) makes adjudicative decisions; or

188 (b) an immediate family member of a person described in Subsection (15)(a).

189 (16) "Public official type" means a notation to identify whether a public official is:

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

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

192 (iii) an individual appointed to or employed in a position in the legislative branch of
193 state government who meets the definition of public official under Subsection (15)(a)(iii); or

194 (iv) an individual appointed to or employed in a position in the executive branch of
195 state government who meets the definition of public official under Subsection (15)(a)(iii); or

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

197 (17) "Quarterly reporting period" means the three-month period covered by each

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

199 (18) "Related person" means a person, agent, or employee who knowingly and
200 intentionally assists a lobbyist, principal, or government officer in lobbying.

201 (19) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister,
202 parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse
203 of any of these individuals.