

Senator Karen Mayne proposes the following substitute bill:

1 **AMENDMENTS TO LIMITATIONS AND REPORTING FOR FOOD**

2 **AND AWARDS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Karen Mayne**

6 House Sponsor: Brad King

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Lobbyist Disclosure and Regulation Act in relation
11 to limitations and reporting for food and awards.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ provides that an expenditure does not include a plaque, commendation, or award
15 that is presented in public and has the name of the individual receiving the plaque,
16 commendation, or award inscribed, etched, printed, or otherwise permanently
17 marked on the plaque, commendation, or award; and

18 ▶ amends limitations and reporting requirements relating to food and beverages.

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 2014, Chapter 335



26 [36-11-304](#), as repealed and reenacted by Laws of Utah 2010, Chapter 325



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

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

30 **36-11-102. Definitions.**

31 As used in this chapter:

32 (1) "Aggregate daily expenditures" means:

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

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

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

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

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

44 (ii) attendance at which is approved by:

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

47 (B) the president of the Senate, if the public official is a member of the Senate; 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) "Capitol hill complex" is as defined in Section [63C-9-102](#).

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

55 (b) "Compensation" includes:

56 (i) a salary or commission;

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

88 (b) "Expenditure" does not mean:
89 (i) a commercially reasonable loan made in the ordinary course of business;
90 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,
91 Campaign and Financial Reporting Requirements;
92 (iii) printed informational material that is related to the performance of the recipient's
93 official duties;
94 (iv) a devise or inheritance;
95 (v) any item listed in Subsection (7)(a) if:
96 (A) given by a relative;
97 (B) given by a compensation payor for a purpose solely unrelated to the public
98 official's position as a public official; ~~or~~
99 (C) the item is food or beverage with a value that does not exceed the food
100 reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed
101 the food reimbursement rate; or
102 ~~[(C)-(F)]~~ (D) the item is not food or beverage, has a value of less than \$10[;], and ~~[(H)]~~
103 the aggregate daily expenditures do not exceed \$10;
104 (vi) food or beverage that is provided at an event to which the following are invited:
105 (A) all members of the Legislature;
106 (B) all members of a standing or interim committee;
107 (C) all members of an official legislative task force;
108 (D) all members of a party caucus; or
109 (E) all members of a group described in Subsections (7)(b)(vi)(A) through (D) who are
110 attending a meeting of a national organization whose primary purpose is addressing general
111 legislative policy;
112 (vii) food or beverage that is provided at an event to a public official who is:
113 (A) giving a speech at the event;
114 (B) participating in a panel discussion at the event; or
115 (C) presenting or receiving an award at the event;
116 (viii) a plaque, commendation, or award that:
117 (A) is presented in public ~~[and having a cash value not exceeding \$50]; and~~
118 (B) has the name of the individual receiving the plaque, commendation, or award

119 inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or
120 award;

121 (ix) admission to or attendance at an event, the primary purpose of which is:

122 (A) to solicit contributions reportable under:

123 (I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or

124 (II) 2 U.S.C. Sec. 434; or

125 (B) charitable solicitation, as defined in Section 13-22-2;

126 (x) travel to, lodging at, food or beverage served at, and admission to an approved

127 meeting or activity;

128 (xi) sponsorship of an official event or official entertainment of an approved meeting

129 or activity;

130 (xii) notwithstanding Subsection (7)(a)(vii), admission to or attendance at an event:

131 (A) that is sponsored by a governmental entity; or

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

133 (xiii) travel to a widely attended event related to a governmental duty of a public

134 official if that travel results in a financial savings to the state.

135 (8) "Food reimbursement rate" means the total amount set by the director of the

136 Division of Finance, by rule, under Subsection 63A-3-107, for in-state meal reimbursement, for

137 an employee of the executive branch, for an entire day.

138 [~~8~~] (9) (a) "Government officer" means:

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

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

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

145 [~~9~~] (10) "Immediate family" means:

146 (a) a spouse;

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

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

149 [~~10~~] (11) "Legislative action" means:

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

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

153 [~~(11)~~] (12) "Lobbying" means communicating with a public official for the purpose of
154 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

155 [~~(12)~~] (13) (a) "Lobbyist" means:

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

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

159 (b) "Lobbyist" does not include:

160 (i) a government officer;

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

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

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

168 (v) a representative of a political party;

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

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

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

179 [~~(13)~~] (14) "Lobbyist group" means two or more lobbyists, principals, government
180 officers, or any combination of lobbyists, principals, and officers who each contribute a portion

181 of an expenditure made to benefit a public official or member of the public official's immediate
182 family.

183 ~~[(14)]~~ (15) "Multiclient lobbyist" means a single lobbyist, principal, or government
184 officer who represents two or more clients and divides the aggregate daily expenditure made to
185 benefit a public official or member of the public official's immediate family between two or
186 more of those clients.

187 ~~[(15)]~~ (16) "Principal" means a person that employs an individual to perform lobbying,
188 either as an employee or as an independent contractor.

189 ~~[(16)]~~ (17) "Public official" means:

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

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

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

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

195 (B) drafts legislation or makes rules;

196 (C) determines rates or fees; or

197 (D) makes adjudicative decisions; or

198 (b) an immediate family member of a person described in Subsection ~~[(16)]~~ (17)(a).

199 ~~[(17)]~~ (18) "Public official type" means a notation to identify whether a public official
200 is:

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

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

203 (iii) an individual appointed to or employed in a position in the legislative branch of
204 state government who meets the definition of public official under Subsection ~~[(16)]~~

205 ~~(17)(a)(iii)~~; or

206 (iv) an individual appointed to or employed in a position in the executive branch of
207 state government who meets the definition of public official under Subsection ~~[(16)]~~

208 ~~(17)(a)(iii)~~; or

209 (b) an immediate family member of a person described in Subsection ~~[(16)]~~ (17)(a).

210 ~~[(18)]~~ (19) "Quarterly reporting period" means the three-month period covered by each
211 financial report required under Subsection 36-11-201(2)(a).

212 [~~(19)~~] (20) "Related person" means a person, agent, or employee who knowingly and
213 intentionally assists a lobbyist, principal, or government officer in lobbying.

214 [~~(20)~~] (21) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,
215 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or
216 spouse of any of these individuals.

217 Section 2. Section **36-11-304** is amended to read:

218 **36-11-304. Expenditures over certain amounts prohibited -- Exceptions.**

219 (1) Except as provided in Subsection (2), a lobbyist, principal, or government officer
220 may not make or offer to make aggregate daily expenditures that exceed [~~\$10~~]:

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

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

223 (2) A lobbyist, principal, or government officer may make aggregate daily expenditures
224 that exceed [~~\$10~~] the limits described in Subsection (1):

225 (a) for the following items, if the expenditure is reported in accordance with Section
226 **36-11-201**:

227 (i) food;

228 (ii) beverage;

229 (iii) travel;

230 (iv) lodging; or

231 (v) admission to or attendance at a meeting or activity that is not an approved meeting
232 or activity; or

233 (b) if the expenditure is made for a purpose solely unrelated to the public official's
234 position as a public official.