

# 2010 Ethics, Campaign Finance, and Lobbyist Disclosure

## Bills passed by the Utah State Legislature

(03/15 draft)

Prepared by the Office of Legislative Research and General Counsel -- March 2010

### 2nd Sub. H.B. 124 Campaign Funds Expenditure Restrictions (*Rep. T. Cosgrove*)

This bill modifies the Campaign and Financial Reporting Requirements by amending provisions related to personal use of campaign monies.

This bill:

- ▶ defines "personal use expenditure" as an expenditure that primarily furthers a personal interest of a candidate or officeholder and that is not connected with the candidacy or office;
- ▶ prohibits a candidate or an officeholder from making a personal use expenditure from campaign contributions;
- ▶ provides a list of authorized and prohibited uses of campaign contributions; and
- ▶ provides for lieutenant governor enforcement by evaluating financial statements, commencing informal adjudicative proceedings, and assessment of administrative penalties equal to 50% of the expenditure and returning 100% of the expenditure to the campaign account.

### 1st Sub. H.B. 267 Lobbyist Disclosure and Regulation Act Amendments (*Rep. K. Garn*)

This bill amends the Lobbyist Disclosure and Regulation Act related to an expenditure by a lobbyist, principal, or government officer for the benefit of a public official.

This bill:

- ▶ requires the disclosure of an expenditure or aggregate daily expenditure greater than \$10;
- ▶ prohibits a lobbyist, principal, or government officer from making an expenditure greater than \$10, except for food, a beverage, travel, lodging, or attendance at a meeting or activity;
- amends the definition of "expenditure" to exclude certain items or items under certain circumstances;
- ▶ amends the information a lobbyist files when registering;
- ▶ changes a lobbyist's filing fee from \$25 to \$100; and
- ▶ repeals a section establishing different reporting schedules.

### 1st Sub. H.B. 270 Financial Disclosure and Conflict of Interest Amendments (*Rep. G. Hughes*)

This bill provides for:

#### Expansion of Application -- Constitutional Officers and State Board of Education

- The requirement to file the disclosure form and the existing criminal provision (Section 76-8-109), which requires a legislator to verbally declare a conflict of interest before a vote if the conflict is not listed on the form, is extended and modified to apply to:
  - ▶ the governor;
  - ▶ the lieutenant governor;
  - ▶ the attorney general;
  - ▶ the state treasurer;
  - ▶ the state auditor; and
  - ▶ members of the State Board of Education.

- Constitutional officers must file the form on January 10 of each year.
- State Board of Education members must file the form:
  - ▶ on January 10 of each year; and
  - ▶ when a member changes employment.
- Legislators must file the form:
  - ▶ on the first day of each legislative session; and
  - ▶ when a legislator changes employment.

**Expansion of Application -- Candidates**

- Candidates for the Legislature, state constitutional offices, and the State Board of Education are required to file a financial disclosure form at the time they file a declaration of candidacy.
- The Office of the Lieutenant Governor is required to make candidates' financial disclosure forms available to the public in person and on the Statewide Electronic Voter Information Website.

**Revised Financial Disclosure Form and Disclosure Requirements**

- Require the following disclosures:
  - ▶ name;
  - ▶ name and address of primary employer;
  - ▶ brief description of employment, including occupation and job title;
  - ▶ for each entity where you are an officer, director, owner, member, or partner:
    - the name of the entity;
    - the type of activity conducted by the entity; and
    - your position in the entity;
  - ▶ for each entity from which you received \$5,000 or more in income in a one-year period immediately before filing:
    - the name of the entity; and
    - the type of activity conducted by the entity;
  - ▶ for each entity where you hold \$5,000 in stocks or bonds as of the date of filing (but excluding funds that are managed by a third party such as mutual funds and blind trusts):
    - the name of the entity; and
    - the type of activity conducted by the entity;
  - ▶ for each entity in which you serve on the board or in a formal advisory capacity:
    - the name of the entity;
    - the type of activity conducted by the entity; and
    - the type of advisory position;
  - ▶ for any real property in which you have an ownership interest that you believe may constitute a conflict of interest:
    - a description of the real property; and
    - a description of the type of interest held in the property;
  - ▶ the name of your spouse and any other adult residing in your household that is not related by blood or marriage;
  - ▶ a brief description of the employment and occupation of your spouse and any other adult residing in your household that is not related by blood or marriage; and
  - ▶ a description of any other matter that you believe may constitute a conflict of interest.
- Disclosure form is signed and dated and contains a verification that the form is true and accurate to the best of the signer's knowledge.
- Blank forms must be made available on the Internet.
- Forms are filed with the Senate or the House.
- Complete forms will be available for review:

- ▶ at the Senate or House offices, for legislators;
- ▶ at the Lieutenant Governor's office, for all other filers; and
- ▶ on the Internet.

**7th Sub. H.B. 329 Campaign Finance Amendments (Rep. B. Ferry)**

This bill:

- ▶ requires a filing entity to electronically file a financial statement;
- ▶ requires the lieutenant governor to post a financial statement online in a searchable format within three business days;
- ▶ requires a filing entity to include a check in an interim or summary report if the check is negotiated at least five days before an interim or a summary report;
- ▶ requires a person sponsoring certain electioneering communications to file a report;
- ▶ repeals a provision requiring a political action committee or political issues committee to disclose the occupation of a person who makes a contribution;
- ▶ establishes additional filing deadlines for a political party, political action committee, and corporation;
- ▶ requires a corporation to disclose a contract with the state in excess of \$100,000;
- ▶ prohibits making a campaign contribution in another's name;
- ▶ establishes reporting requirements for labor organizations; and
- ▶ imposes a \$100 fine for failure to file a timely financial statement.

**H.J.R. 14 Joint Rules Resolution on Financial Disclosures (Rep. G. Hughes)**

This joint resolution modifies provisions of the Legislative Joint Rules relating to the declaration and disclosure of conflicts of interest and filing financial disclosures.

This resolution:

- ▶ modifies and creates definitions;
- ▶ requires each legislator to file a financial disclosure form;
- ▶ provides filing deadlines and requirements for the form;
- ▶ specifies the content of the form;
- ▶ requires the form to be made available on the Internet and in legislative offices; and
- ▶ makes technical changes.

**H.J.R. 15 Joint Resolution on Legislative Ethics Commission (Rep. D. Clark)**

This joint resolution of the Legislature proposes to amend the Utah Constitution to establish a legislative ethics commission. Other provisions in the resolution include:

- ▶ the commission is established in the Utah Constitution to assist the Legislature in the exercise of its authority to "punish disorderly conduct," where appropriate;
- ▶ the legislative ethics commission will have authority to conduct an independent review of complaints against legislators alleging unethical behavior; the purpose of the review is to determine whether the complaint merits further consideration by the house of the member against whom the complaint is made;
- ▶ the commission will make recommendations to the Legislature about how to handle complaints alleging unethical behavior;
- ▶ the House and Senate will continue to have ultimate authority to determine whether one of their members has engaged in unethical behavior and, if so, any appropriate sanction;
- ▶ the ethics commission will consist of five members; a commission member may not be a sitting legislator or a registered lobbyist; and

- ▶ the Legislature is authorized to adopt rules to govern how the commission operates including:
  - procedures and requirements for filing a complaint;
  - the qualifications, appointment, and terms of commission members; and
  - commission duties, powers, operations, and procedures.

**H.R. 9 Speaker's Powers Amendments (Rep. K. Garn)**

This resolution enacts a house rule providing for the approval of a meeting or activity.

This resolution:

- ▶ defines a term;
- ▶ authorizes the Speaker to approve certain meetings or activities that are not expenditures under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;
- ▶ requires a Representative to submit a written request for approval; and
- ▶ requires the posting of the written request and approval on the House's website within two business days.

**2nd Sub. S.B. 136 Open and Public Meetings Revisions Related to Review of Ethics Complaints (Sen. J. Valentine)**

This bill modifies provisions of the Open and Public Meetings Act.

This bill:

- ▶ authorizes the Independent Legislative Ethics Commission to convene a closed meeting without first commencing an open meeting and voting to close the meeting if:
  - the purpose of the meeting is to conduct business relating to the receipt or review of an ethics complaint; and
  - it provides advance public notice of the closed meeting; and
- ▶ provides that an ethics committee of the Legislature may close a meeting by a majority vote of the members present if the committee is meeting for the purpose of reviewing an ethics complaint and the meeting is closed for the purpose of:
  - conducting deliberations to reach a decision on an ethics complaint; or
  - seeking legal advice on legal, evidentiary, or procedural matters.

**1st Sub. S.B. 138 GRAMA Revisions Related to Review of Ethics Complaints (Sen. J. Valentine)**

This bill modifies provisions of the Government Records Access and Management Act that relate to classification of records associated with the review of legislative ethics complaints.

This bill:

- ▶ provides private status to certain records of the Independent Legislative Ethics Commission;
- ▶ provides that the commission's summary data report is not a private record; and
- ▶ provides that only records related to review of ethics complaints may be classified as private by a legislative ethics committee, unless those documents are classified as public under legislative rule.

**2nd Sub. S.J.R. 3 Joint Resolution on Ethics Complaint Procedures (Sen. J. Valentine)**

This bill modifies the joint legislative rules that govern the receipt and review of an ethics complaint against a legislator.

This resolution:

- ▶ establishes an Independent Legislative Ethics Commission;
- ▶ establishes membership for the commission;
- ▶ provides qualifications for membership;
- ▶ provides term periods and replacement procedures for a member of the commission;
- ▶ provides for the resignation, removal, or recusal of a member of the commission;
- ▶ provides procedures for calling a meeting of the commission;
- ▶ provides for an independent staff to assist the commission;
- ▶ specifies the grounds upon which an ethics complaint may be filed against a legislator;
- ▶ provides certain time and jurisdiction limitations on filing an ethics complaint;
- ▶ establishes a general outline of hearing procedures for reviewing an ethics complaint;
- ▶ provides the chair of the commission or an ethics committee with the authority to direct proceedings and make rulings;
- ▶ permits a majority of the commission or committee to overrule certain decisions of the chair;
- ▶ provides subpoena powers to the commission and committees;
- ▶ provides procedures for issuing a subpoena;
- ▶ defines actions that constitute contempt of the Legislature in relation to procedures established under these rules;
- ▶ provides procedures for enforcing findings of contempt of the Legislature;
- ▶ provides general procedures for the examination of a witness;
- ▶ establishes permitted and restricted communications by commission and committee members during the period that an ethics complaint is under review;
- ▶ establishes rules that govern the payment of attorney fees and costs;
- ▶ establishes conduct requirements for an attorney appearing before the commission or a committee;
- ▶ provides procedures for filing an ethics complaint, including:
  - who may file a complaint;
  - restrictions on dates for filing a complaint;
  - the form of the complaint; and
  - information required to be included in the complaint;
- ▶ prohibits any person from disclosing the existence or contents of an ethics complaint while the commission is reviewing the complaint with certain exceptions;
- ▶ provides that the commission shall conduct the original review of each ethics complaint;
- ▶ provides that commission meetings and hearings shall be closed to the public;
- ▶ permits the commission or an ethics committee to dismiss allegations that have previously been heard by the commission or an ethics committee;
- ▶ provides procedures for the commission to schedule a meeting to review an ethics complaint;
- ▶ permits the accused legislator to file a response to the complaint;
- ▶ establishes procedures and requirements for filing a response;
- ▶ provides that the scope of the committee's authority is limited to review of those allegations contained in the complaint;
- ▶ permits the commission to consult on certain issues with commission staff outside of the presence of parties and their counsel;
- ▶ prohibits third party recording of commission meetings, except under limited circumstances;
- ▶ requires that all portions of the commission's meetings be recorded;
- ▶ provides procedures for storing a record of commission meetings;

- ▶ provides that recordings and records of commission meetings are to be classified as private records under the Government Records Access and Management Act;
- ▶ provides procedures for the commission's deliberations when reviewing an ethics complaint;
- ▶ provides standards of evidence and voting procedures to be used by the commission in determining whether each allegation in a complaint is proved or not proved;
- ▶ requires the commission to dismiss allegations that are not found to be proved;
- ▶ if one or more allegation is found to be proved, requires the commission to:
  - refer the proved allegations to the Senate Ethics Committee or the House Ethics Committee; and
  - prepare a recommendation, a modified complaint, and a modified response for public release and submission to the ethics committee for review;
- ▶ provides procedures for the ethics committee's review of allegations submitted by the commission;
- ▶ provides that committee meetings for review of the allegations submitted by the commission are public meetings and subject to the Open and Public Meetings Act;
- ▶ permits the committee to close the meeting for discussion of certain matters;
- ▶ prohibits third party recording of committee meetings, except under limited circumstances;
- ▶ requires that all portions of the committee's meetings be recorded;
- ▶ provides procedures for storing a record of committee meetings;
- ▶ provides procedures for the committee's deliberations;
- ▶ provides standards of evidence and voting procedures to be used by a committee in determining whether each allegation referred to the committee by the commission is proved or not proved;
- ▶ requires a committee to dismiss allegations that are not found to be proved;
- ▶ requires a committee to publicly issue a finding and order on the allegations; and
- ▶ if one or more allegation is found to be proved, requires the committee to:
  - vote on a recommended consequence for the violation, including censure, expulsion, or denial of any of the respondent's rights or privileges; and
  - refer the finding and order to the membership of the House or Senate.

**S.J.R. 19 Joint Rules Resolution on Ethics Complaints (*Sen. J. Valentine*)**

This bill modifies provisions of the joint legislative rules that govern the receipt and review of ethics complaints.

This resolution:

- ▶ requires that ethics complaints be filed with the Independent Legislative Ethics Commission; and
- ▶ provides that the chair of the Independent Legislative Ethics Commission performs the review of an ethics complaint for technical compliance; and
- ▶ requires the chair of the commission to provide notice of a filing of an ethics complaint (without naming the legislator against whom the complaint has been filed) to the Speaker of the House of Representatives or the President of the Senate and to the chair and vice chair of the House or Senate legislative ethics committee, but requires that the filing remain confidential until publicly disclosed by the commission.