

LOBBYIST DISCLOSURE AND REGULATION ACT

AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrice M. Arent

Senate Sponsor: _____

Cosponsors:	Steve Eliason	Dixon M. Pitcher
Johnny Anderson	Stephen G. Handy	Holly J. Richardson
Joel K. Briscoe	Jim Nielson	Douglas Sagers
Derek E. Brown	Lee B. Perry	Dean Sanpei
David G. Butterfield	Jeremy A. Peterson	Brad R. Wilson
LaVar Christensen	Val L. Peterson	

LONG TITLE

General Description:

This bill amends the Lobbyist Disclosure and Regulation Act to apply lobbyist disclosure and regulation provisions to a legislator elect.

Highlighted Provisions:

This bill:

- modifies definitions to apply lobbyist disclosure and regulation provisions to a legislator elect; 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 2010, Chapter 325

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 meeting or activity" means a meeting or activity:

(a) to which a legislator or legislator elect is invited; and

(b) attendance at which is approved by:

(i) the speaker of the House of Representatives, if the ~~[public official is]~~ legislator or legislator elect is or will be a member of the House of Representatives; or

(ii) the president of the Senate, if the ~~[public official is]~~ legislator or legislator elect is or will be a member of the Senate.

(3) (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.

(4) "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.

(5) "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) an adjudicative proceeding of a state agency.

(6) (a) "Expenditure" means any of the items listed in this Subsection (6)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(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 a sporting, recreational, or artistic event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (6)(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 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 (6)(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) (I) the item has a value of less than \$10; and

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

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

102 (A) all members of the Legislature;

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

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

105 (D) all members of a party caucus; ~~or~~

106 (E) all legislators elect; or

107 ~~[(E)]~~ (F) all members of a group described in Subsections (6)(b)(vi)(A) through (D)
108 who are attending a meeting of a national organization whose primary purpose is addressing
109 general legislative policy;

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

111 (A) giving a speech at the event;

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

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

114 (viii) a plaque, commendation, or award presented in public and having a cash value
115 not exceeding \$50;

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

117 (A) to solicit contributions reportable under:

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

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

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

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

meeting or activity; or

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

(7) (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

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

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

(8) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

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

(9) "Legislative action" means:

(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 or legislator elect; and

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

(10) (a) "Legislator elect" means an individual who:

(i) has received a certificate of election from the lieutenant governor in accordance with Section ~~H~~→ 20A-4-304 or ←~~H~~ 20A-4-306; and

(ii) has not begun the individual's term of office in accordance with Utah Constitution Article VI, Section 3 or 4.

(b) "Legislator elect" does not include an individual who becomes a legislator by appointment by the governor.

~~[(10)]~~ (11) "Lobbying" means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

~~[(11)]~~ (12) (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 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 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 executive action; or

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

~~[(12)]~~ (13) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

~~[(13)]~~ (14) "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.

~~[(14)]~~ (15) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

184 ~~[(15)]~~ (16) "Public official" means:
185 (a) (i) a member of the Legislature;
186 (ii) a legislator elect;
187 ~~[(11)]~~ (iii) an individual elected to a position in the executive branch of state
188 government; or
189 ~~[(11)]~~ (iv) an individual appointed to or employed in a position in the executive or
190 legislative branch of state government if that individual:
191 (A) occupies a policymaking position or makes purchasing or contracting decisions;
192 (B) drafts legislation or makes rules;
193 (C) determines rates or fees; or
194 (D) makes adjudicative decisions; or
195 (b) an immediate family member of a person described in Subsection ~~[(15)]~~ (16)(a).
196 ~~[(16)]~~ (17) "Public official type" means a notation to identify whether a public official
197 is:
198 (a) (i) a member of the Legislature;
199 (ii) a legislator elect;
200 ~~[(11)]~~ (iii) an individual elected to a position in the executive branch of state
201 government;
202 ~~[(11)]~~ (iv) an individual appointed to or employed in a position in the legislative branch
203 of state government who meets the definition of public official under Subsection ~~[(15)(a)(11)]~~
204 (16)(a)(iv); or
205 ~~[(11)]~~ (v) an individual appointed to or employed in a position in the executive branch
206 of state government who meets the definition of public official under Subsection ~~[(15)(a)(11)]~~
207 (16)(a)(iv); or
208 (b) an immediate family member of a person described in Subsection ~~[(15)]~~ (16)(b).
209 ~~[(17)]~~ (18) "Quarterly reporting period" means the three-month period covered by each
210 financial report required under Subsection 36-11-201(2)(a).
211 ~~[(18)]~~ (19) "Related person" means a person, agent, or employee who knowingly and
212 intentionally assists a lobbyist, principal, or government officer in lobbying.
213 ~~[(19)]~~ (20) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,
214 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or

215 spouse of any of these individuals.

Legislative Review Note
as of 2-2-11 5:18 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 274

SHORT TITLE: **Lobbyist Disclosure and Regulation Act Amendments**

SPONSOR: **Arent, P.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.