

REGULATION OF GIFTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions of the Lobbyist Disclosure and Regulation Act relating to gift reporting requirements.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ standardizes language relating to reporting of expenses made to reimburse or pay for travel costs or lodging costs of a public official;
- ▶ requires that gifts of food or beverage be reported by public official name if the expenditure exceeds \$15, rather than the current \$50 threshold;
- ▶ requires that gifts totaling \$30 within a calendar day be reported by public official name, rather than the current \$50 threshold;
- ▶ exempts from reporting requirements all expenditures made in direct connection with a legislative site visit that is formally recognized by the Legislature and to which every member of the Legislature is invited; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



Utah Code Sections Affected:

AMENDS:

36-11-102, as last amended by Laws of Utah 2007, Chapter 233

36-11-201, as last amended by Laws of Utah 2007, Chapters 233 and 239

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) when an expenditure is 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 expenditures were attributed to different clients.

(2) "Executive action" means:

(a) nominations and appointments by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of any rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

(c) agency ratemaking proceedings.

(3) (a) "Expenditure" means any of the items listed in this Subsection (3)(a) when given to or for the benefit of a public official:

(i) a purchase, payment, distribution, loan, gift, advance, deposit, subscription, forbearance, services, or goods, unless consideration of equal or greater value is received; and

(ii) a contract, promise, or agreement, whether or not legally enforceable, to provide any of the items listed in Subsection (3)(a)(i).

(b) "Expenditure" does not mean:

- 59 (i) a commercially reasonable loan made in the ordinary course of business;
60 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,
61 Campaign and Financial Reporting Requirements;
62 (iii) printed informational material that is related to the performance of the recipient's
63 official duties;
64 (iv) a devise or inheritance;
65 (v) any item listed in Subsection (3)(a) if given by a relative;
66 (vi) a modest item of food or refreshment such as a beverage or pastry offered other
67 than as part of a meal, the value of which does not exceed \$5;
68 (vii) a greeting card or other item of little intrinsic value that is intended solely for
69 presentation; or
70 (viii) plaques, commendations, or awards presented in public and having a cash value
71 not exceeding \$50.
- 72 (4) (a) "Government officer" means:
73 (i) an individual elected to a position in state or local government, when acting within
74 his official capacity; or
75 (ii) an individual appointed to or employed in a full-time position by state or local
76 government, when acting within the scope of his employment.
- 77 (b) "Government officer" does not mean a member of the legislative branch of state
78 government.
- 79 (5) "Immediate family" means:
80 (a) a spouse;
81 (b) a child residing in the household; or
82 (c) an individual claimed as a dependent for tax purposes.
- 83 (6) "Interested person" means an individual defined in Subsections (9)(b)(iii) and (viii).
84 (7) "Legislative action" means:
85 (a) bills, resolutions, amendments, nominations, and other matters pending or proposed
86 in either house of the Legislature or its committees or requested by a legislator; and
87 (b) the action of the governor in approving or vetoing legislation.
- 88 (8) "Lobbying" means communicating with a public official for the purpose of
89 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

90 (9) (a) "Lobbyist" means:
91 (i) an individual who is employed by a principal; or
92 (ii) an individual who contracts for economic consideration, other than reimbursement
93 for reasonable travel expenses, with a principal to lobby a public official.

94 (b) "Lobbyist" does not include:
95 (i) a government officer;
96 (ii) a member or employee of the legislative branch of government;
97 (iii) any person appearing at, or providing written comments to, a hearing conducted in
98 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act or Title 63,
99 Chapter 46b, Administrative Procedures Act;

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

103 (v) a representative of a political party;

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

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

111 (viii) an individual who appears on his own behalf before a committee of the
112 Legislature or an executive branch agency solely for the purpose of testifying in support of or
113 in opposition to legislative or executive action.

114 (10) "Lobbyist group" means two or more lobbyists, principals, government officers,
115 and any combination of lobbyists, principals, and officers who each contribute a portion of an
116 expenditure made to benefit a public official or member of the public official's immediate
117 family.

118 (11) (a) "Lodging costs" means the cost of acquiring shelter or lodging at a commercial
119 hotel, motel, inn, or other lodging establishment.

120 (b) "Lodging costs" includes the cost of the room or other lodging facilities, associated

taxes, and other fees directly associated with the cost of lodging.

(c) "Lodging costs" does not mean the cost of food, services, or other items, unless that cost is included as an integral part of the standard cost for the lodging.

~~[(11)]~~ (12) "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.

~~[(12)]~~ (13) "Person" includes individuals, bodies politic and corporate, partnerships, associations, and companies.

~~[(13)]~~ (14) "Principal" means a person that employs an individual to perform lobbying either as an employee or as an independent contractor.

~~[(14)]~~ (15) "Public official" means:

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

(ii) an individual elected to a position in the executive branch; or

(iii) an individual appointed to or employed in the executive or legislative branch if that individual:

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

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection ~~[(14)]~~ (15)(a).

~~[(15)]~~ (16) "Public official type" means a notation to identify whether a public official is:

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

(ii) an individual elected to a position in the executive branch;

(iii) an individual appointed to or employed in a position in the legislative branch who meets the definition of public official under Subsection ~~[(14)]~~ (15)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch who meets the definition of public official under Subsection ~~[(14)]~~ (15)(a)(iii); or

(b) an immediate family member of a person described in Subsection ~~[(14)]~~ (15)(b).

~~[(16)]~~ (17) "Quarterly reporting period" means the three-month period covered by each

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

~~[(+7)]~~ (18) "Related person" means any person, or agent or employee of a person, who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

~~[(+8)]~~ (19) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

~~[(+9)]~~ (20) (a) "Tangible personal property" means an item having a description that is consistent with the meaning of tangible personal property found in the Utah Constitution, Article XIII.

(b) "Tangible personal property" does not include the admission price or cost for events, meals, recreation, outings, or functions.

(21) (a) "Travel costs" means the cost of obtaining transportation from one location to another.

(b) "Travel costs" includes any taxes or other fees that are directly associated with the cost of transportation.

(c) "Travel costs" does not mean the cost of food, services, or other items, unless that cost is included as an integral part of the standard cost of the transportation.

Section 2. Section **36-11-201** is amended to read:

36-11-201. Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

(1) (a) (i) Each lobbyist shall file quarterly financial reports with the lieutenant governor on or before the due dates under Subsection (2)(a).

(ii) If the lobbyist has not made an expenditure during the quarterly reporting period, the lobbyist shall file a quarterly financial report listing the amount of expenditures as "none."

(b) Each government officer or principal that makes an expenditure during any of the quarterly reporting periods under Subsection (2)(a) shall file a quarterly financial report with the lieutenant governor on or before the date that a report for that quarter is due.

(2) (a) Quarterly expense reports shall be due on the following dates:

(i) April 10, for the period of January 1 through March 31;

(ii) July 10, for the period of April 1 through June 30;

(iii) October 10, for the period of July 1 through September 30; and

(iv) January 10, for the period of October 1 through December 31 of the previous year.
(b) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday, the report shall be considered to be due on the next succeeding business day.

(c) A financial report shall be considered timely filed if it is:

- (i) postmarked on its due date; or
- (ii) filed electronically on or before the due date.

(3) A quarterly financial report shall contain:

(a) the total amount of expenditures made to benefit any public official during the quarterly reporting period;

(b) the total amount of expenditures made, by public official type, during the quarterly reporting period;

(c) for the report due on January 10:

(i) the total amount of expenditures made to benefit any public official during the last calendar year; and

(ii) the total amount of expenditures made, by public official type, during the last calendar year;

(d) except as specifically excluded under Subsection (8), a disclosure of each expenditure made during the quarterly reporting period to reimburse or pay for the travel costs or lodging [expenses] costs of a public official, including for each trip:

(i) the purpose and each destination of the trip;

(ii) the name of each public official that participated in the trip;

(iii) the public official type of each public official named;

(iv) for each public official named, a listing of the amount and purpose of each expenditure made ~~[for travel or lodging that benefitted the]~~ to reimburse or pay for a travel cost or lodging cost of a public official; and

(v) the total amount of expenditures made to ~~[benefit each public official named]~~ reimburse or pay for travel costs or lodging costs;

(e) except as specifically excluded under Subsection (8), a disclosure of [each] every other expenditure made during the quarterly reporting period [that was not disclosed under Subsection (3)(d)], to be provided as follows:

(i) using Schedule A under Section 36-11-201.3, a disclosure of each of the following

expenditures:

(A) an expenditure made for the cost or value of admission to a professional or collegiate sporting event;

(B) an expenditure made for tangible personal property, if the aggregate daily expenditures benefitting the public official are greater than \$10;

(C) an expenditure made for food or beverage, if the aggregate daily expenditures benefitting the public official are greater than [~~\$50~~] \$15; and

(D) any expenditure not otherwise reported in Subsection (3)(d), or this Subsection (3)(e)(i), if the aggregate daily expenditures benefitting the public official are greater than [~~\$50~~] \$30; and

(ii) using Schedule B under Section 36-11-201.3, a disclosure of every expenditure not reported in Subsection (3)(d) or (3)(e)(i);

(f) for each public official who was employed by the lobbyist, principal, or government officer or who performed work as an independent contractor for the lobbyist, principal, or government officer during the last year, a list that provides:

(i) the name of the public official; and

(ii) the nature of the employment or contract with the public official;

(g) each bill or resolution, by number and short title, on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official for which a report is required by this section, if any;

(h) a description of each executive action on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official for which a report is required by this section, if any;

(i) the general purposes, interests, and nature of the organization or organizations that the lobbyist, principal, or government officer filing the report represents; and

(j) for a lobbyist, a certification that the information provided in the report is true, accurate, and complete to the lobbyist's best knowledge and belief.

(4) In reporting expenditures under this section for events to which all legislators are invited, each lobbyist, principal, and government officer:

(a) may not divide the cost of the event by the number of legislators who actually attend the event and report that cost as an expenditure made to those legislators;

(b) shall divide the total cost by the total number of Utah legislators and others invited to the event and report that quotient as the amount expended for each legislator who actually attended the event; and

(c) may not report any expenditure as made to a legislator who did not attend the event.

(5) A related person may not, while assisting a lobbyist, principal, or government officer in lobbying, make an expenditure that benefits a public official under circumstances which would otherwise fall within the disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal, or government officer.

(6) The lieutenant governor shall:

(a) (i) develop preprinted forms for all financial reports required by this section; and

(ii) make copies of the forms available to each person who requests them; and

(b) provide a reporting system that allows financial reports to be submitted via the Internet.

(7) (a) Each lobbyist and each principal shall continue to file the quarterly financial reports required by this section until the lobbyist or principal files a statement with the lieutenant governor that:

(i) states:

(A) for a lobbyist, that the lobbyist has ceased lobbying activities; or

(B) for a principal, that the principal no longer employs an individual as a lobbyist;

(ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's license;

(iii) contains a listing, as required by this section, of all previously unreported expenditures that have been made through the date of the statement; and

(iv) states that the lobbyist or principal will not make any additional expenditure that is not disclosed on the statement unless the lobbyist or principal complies with the disclosure and licensing requirements of this chapter.

(b) A lobbyist that fails to renew the lobbyist's license or otherwise ceases to be licensed shall be required to file quarterly reports until the lobbyist files the statement required by Subsection (7)(a).

(8) An expense that is directly associated with a site visit or traveling tour is not subject to the reporting requirements of this section if:

276 (a) the site visit or traveling tour is officially scheduled by the Legislative Management
277 Committee; and
278 (b) every member of the Legislature is invited to the site visit or traveling tour.

Legislative Review Note
as of 2-15-08 2:21 PM

Office of Legislative Research and General Counsel

S.B. 273 - Regulation of Gifts

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

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