Submission by the

Alberta Federation of Labour

to the

Standing Committee on Legislative Offices

on the

Lobbyists Act Review

August 12, 2011

While it is important and necessary for elected officials to seek the advice of experts and to consult with constituents before making public policy decisions, there is a fine line between this and being unduly influenced by individuals and groups who stand to profit, monetarily or otherwise, from the outcome of those decisions. This is why it has long been recognized that some rules and regulations be placed around what has come to be known as "lobbying."

In a democracy, the appearance of fairness is almost as important as fairness itself as the public's confidence in their representatives is essential for the system to work. The public puts their trust in the people they elect and implicitly agrees to abide by their decisions. Historically, when that trust was broken, or when it appeared to have been broken, public unrest ensued to varying degrees, with the ultimate outcome being a coup or a revolt of some sort. Less dramatic outcomes include shifts in governments or forced resignations of public officials.

But inevitably, when a public representative, official or body loses the trust of the people that are governed, some sort of shift is required to restore that trust.

Maintaining public trust is the basis for creating regulations surrounding the act of lobbying government and governmental officials in the interest of constituents or organizations.

There are a number of principles that need to be kept in mind while considering appropriate rules for lobbying:

1. Elected officials are charged with serving all of their constituents, not only those who elected them or who agree with them philosophically. While our partisan system clearly implies that elected officials will view things from an ideological standpoint, or (hopefully) base their decisions on a set of promises made during the election period, it is incumbent on those officials to consider the views of those who disagree with them.

2. As far as is practicable, appointed officials and staff must ensure that they do not approach decision-making from a partisan or an ideological perspective, but must be guided by public policy that has been debated and agreed upon democratically.

3. For the purposes of maintaining public trust it is important that the discussions between governmental officials, whether elected or not, and constituents, interested individuals or organizations be a matter of public record. The public has a right to know who is influencing public policy.

4. The amount of financial resources a constituent, interested individual or organization has should not impact the influence or the amount of weight given to their views. Nor should it impact the amount of access to government officials that they are afforded.

5. Meetings and/or conversations on matters of public policy between public officials and constituents, interested individuals or organizations should be a matter of the public record regardless of which party initiated the communication.

Implementing these principles into the current legislation requires the Legislature to commit to a level of openness and accountability that has not been seen before. It requires an end to what some have described as "the old boys club" where deals get made over drinks at a social club with a handshake, or a wink and a nod.

Accountability in decision making requires office holders to justify their decisions based on solid evidence and reasoning rather than ideology and relationships. That is why it is important to show a clear line from the introduction of a public policy, whether by the government, itself, or from an outside interested party, through to the decision to introduce that policy or not. As far as possible, all the steps along the way should be a matter of public record. Strong lobbying laws inform the public about who is presenting their interests to government officials and helps them understand the factors leading to the decision.

While Alberta's Lobbyist Act (2007) is certainly a welcome step forward towards accountability, insofar as it created a lobby in this province for the first time, it could certainly go further to meet the principles laid out above.

We submit that much more detail needs to be provided by the lobbyist in terms of the ***"Particulars of Lobbying Activities"*** that must be listed in the registration. Currently, all that is required is a general description of which departments will be lobbied in the current and following six months, without a requirement describing which specific individuals are being lobbied and the specific ask of that lobby. Furthermore, the forum of that lobby is also important: is the official being taken to a fine dinner? Or a round of golf? Or is it simply a meeting? Clearly, the nature of the lobby can be seen to impact the outcome.

Additionally, a reporting mechanism for public office holders and their staff should be created. They should be required to report regularly (we suggest monthly) on the interaction they've had with registered lobbyists, who was in attendance and what was discussed. Any presentation materials should be made public.

We acknowledge that there may be times when the details of certain discussions must be kept confidential but these instances should be uncommon and guidelines for when these discussions are acceptable should be set out clearly.

British Columbia has initiated some aspects of a reporting mechanism.

Currently, Sections 4 (2) and 5(2) allow the lobbyist to file one registration "even though a consultant lobbyist [or, an organization, in the case of 5(2)] named in the return may, in connection with that undertaking, communicate with one or more public office holders on one or more occasions . . . " We suggest that each public office holder that will be lobbied be listed, if not at the time of the initial registration, then subsequently as meetings are set.

These amendments to the current law would ensure that the public is made aware of the undertakings being made by interested individuals, constituents or organizations and allow for free and open debate of those undertakings, resulting in public office holders being as informed as possible when making the decisions they are charged with.

Other changes that we would like to see in this legislation include:

- Lowering the threshold of organizational and consultant lobbyist from 100 hours annually to a much lower number – perhaps as low as 20. Obviously we think that we should cast a wider net and that the public should be made aware of more people who are legitimately attempting to influence public policy. A good example of why this is important is the recent exercise undertaken by the Minister of Employment and Immigration to decide whether and how much to raise the minimum wage in Alberta. The Canadian Restaurant and Foodservices Association admitted in the press that they had lobbied the government on minimum wage regulations. However, that same organization did not appear on the Lobbyist Registration, presumably because they did not meet the threshold of 100 hours. Their effort to influence the Minister appears to have been successful, but the public would not have known about it had they not disclosed this information themselves.

- We would like to see a review of Section 3(1) of the Act which lists those who are exempted from the Act. Particularly, we're not sure why individuals from non-profits are excluded (3(1)(i)) as well as volunteers (3(1)(l)). While these people may not benefit directly from the efforts of their lobbying, it is beneficial for the public to be made aware that they are presenting their views to public officials. The caution for this is that a lack of finances should not impede any person or organization's ability to lobby.

- If a return is removed from the registry under subsection (6)(c), the Registrar should make this information public by making a note of the removal in the registry. It is as important for the public to know which organizational and consultant lobbyists are refused access as it is for it to know who gains access to public office holders.

- We object to the privacy of investigations conducted by the Registrar demanded in Section 15(4). The registry is a matter of public record and if there is an allegation that the Act was contravened, the public has a right to know.

- We object to the Lieutenant Governor in Council having the right, provided for in Section 20(a.1) and 20(a.2) to prescribe who is not considered to be consultant lobbyists or organization lobbyists as well as individuals to whom this Act does not apply. This very power flies in the face of the very intent of this Act, essentially allowing Cabinet to circumvent it when it decides it is expedient without any need to justify that decision.

- We believe that the Lobbyist Returns in Schedules 1 and 2 should require additional information. In addition to what has been described above:

    - The associated costs anticipated to the lobbyists with the techniques of communication described in Schedule 1, Section 2(q) and Schedule 2, Section 2(p) should be listed with a requirement for full disclosure of costs upon the expiry of the registration.

    - The designated filer should be required to disclose in the return whether or not the designated filer or her/his client made a financial contribution towards the political party that is in power, dating back to the fiscal year previous to the last provincial election.

The Alberta Federation of Labour believes strongly that the public has a right and should be encouraged to freely engage in discussion and debate around public policy decisions. We have always attempted to participate in this way and it is our intent to continue to do so. We also firmly believe that no entity should have their opinions considered with more weight than others due to unfair access or any other reason other than the merits of the arguments themselves.

By not only making the names of those who are meeting with public officials a matter of the public record, but by listing the dates and subject matter of those meetings, public officials automatically become accountable to those who they are meant to serve. This and the other suggestions we have made for amendments to the ***Lobbyists Act*** are meant to de-mystify the decision-making process for the public and to make it more difficult for officials to make public policy decisions for any other reason than the merits of the facts presented to them.

We submit our recommendations in good faith and ask the Committee to give them full consideration.

The Alberta Federation of Labour would welcome the opportunity to make an oral submission to the Committee.

Respectfully submitted,

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Alberta Federation of Labour

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