

HOUSE BILL 135

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

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AN ACT

RELATING TO LOBBYIST REGULATION; REQUIRING CERTAIN REPORTS TO
BE MADE BY LOBBYISTS' EMPLOYERS; REQUIRING REPORTS TO BE POSTED
ONLINE WITHIN A CERTAIN TIME FRAME.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Lobbyist Regulation Act
is enacted to read:

"~~[NEW MATERIAL]~~ ESTIMATED LOBBYING EXPENSE REPORTS TO BE
FILED BY LOBBYISTS' EMPLOYERS.--

A. No later than January 15 of each year, a
lobbyist's employer who incurs lobbying expenses shall file an
estimated lobbying expense report with the secretary of state
on a prescribed form or in an electronic format approved by the
secretary of state. The estimated lobbying expense report
shall include:

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1 (1) a sworn statement that sets forth the
2 total estimated lobbying expenses that will be incurred through
3 April 25 of the current year; and

4 (2) a sworn statement setting forth the amount
5 of total lobbying expenses actually incurred from April 25
6 through December 31 of the preceding year; provided that no
7 statement is required pursuant to this paragraph unless:

8 (a) the total lobbying expenses actually
9 incurred from April 25 through December 31 of the preceding
10 year differ by more than ten percent from the amount of
11 lobbying expenses estimated for that period; or

12 (b) lobbying expenses were actually
13 incurred from April 25 through December 31 of the preceding
14 year and no report was filed estimating lobbying expenses for
15 that period.

16 B. No later than May 1 of each year, a lobbyist's
17 employer who incurs lobbying expenses shall file an estimated
18 lobbying expense report with the secretary of state on a
19 prescribed form or in an electronic format approved by the
20 secretary of state. The estimated lobbying expense report
21 shall include:

22 (1) a sworn statement that sets forth the
23 total estimated lobbying expenses that will be incurred from
24 April 25 through December 31 of the current year; and

25 (2) a sworn statement setting forth the amount

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1 of total lobbying expenses actually incurred through April 25
2 of the current year; provided that no statement is required
3 pursuant to this paragraph unless:

4 (a) the total lobbying expenses actually
5 incurred through April 25 of the current year differ by more
6 than ten percent from the amount of lobbying expenses estimated
7 for that period; or

8 (b) lobbying expenses were actually
9 incurred through April 25 of the current year and no report was
10 filed estimating lobbying expenses for that period.

11 C. After the initial employment or retention of a
12 lobbyist and before the lobbyist engages in lobbying:

13 (1) the lobbyist's employer shall amend the
14 amount of total estimated lobbying expenses stated in any
15 report filed pursuant to Subsection A or B of this section for
16 the period in which the lobbyist is initially employed or
17 retained; or

18 (2) if the lobbyist's employer has not filed a
19 report for the period pursuant to Subsection A or B of this
20 section, the lobbyist's employer shall file an initial report
21 for the remainder of the reporting period in which the lobbyist
22 is initially employed or retained.

23 D. If the estimated lobbying expense report is
24 filed electronically, the report shall be electronically
25 authenticated by the lobbyist's employer using an electronic

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1 signature as prescribed by the secretary of state in
2 conformance with the Electronic Authentication of Documents Act
3 and the Uniform Electronic Transactions Act. For the purposes
4 of the Lobbyist Regulation Act, a report that is electronically
5 authenticated in accordance with the provisions of this
6 subsection shall be deemed to have been subscribed and sworn to
7 by the lobbyist's employer that is required to file the report.

8 E. As used in this section, "lobbying expenses"
9 means an aggregate total of:

10 (1) expenditures paid by a lobbyist that are
11 reimbursed by the lobbyist's employer;

12 (2) the political contributions made by a
13 lobbyist that are reimbursed by the lobbyist's employer;

14 (3) other expenses incurred by a lobbyist that
15 are reimbursed by the lobbyist's employer, including living
16 expenses, expenses for maintaining an office and other expenses
17 incidental to lobbying;

18 (4) all compensation paid to a lobbyist for
19 lobbying;

20 (5) the salary paid to the lobbyist for the
21 time that the lobbyist is engaged in lobbying if a lobbyist is
22 an employee of the lobbyist's employer; and

23 (6) any other lobbying expenditures made by
24 the lobbyist's employer and not included in Paragraphs (1)
25 through (5) of this subsection."

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1 SECTION 2. Section 2-11-6 NMSA 1978 (being Laws 1977,
2 Chapter 261, Section 6, as amended) is amended to read:

3 "2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--
4 REPORTING PERIODS.--

5 A. Each lobbyist or lobbyist's employer who makes
6 or incurs expenditures or political contributions for the
7 benefit of or in opposition to a state legislator or candidate
8 for the state legislature, a state public officer or candidate
9 for state public office, a board or commission member or state
10 employee who is involved in an official action affecting the
11 lobbyist's employer or in support of or in opposition to a
12 ballot issue or pending legislation or official action shall
13 file an expenditure report with the secretary of state on a
14 prescribed form or in an electronic format approved by the
15 secretary of state and published by the secretary of state in
16 accordance with Section 2-11-7 NMSA 1978. The expenditure
17 report shall include a sworn statement that sets forth:

18 (1) the cumulative total of the expenditures
19 made or incurred by the employer or lobbyist during the covered
20 reporting period, indicating the amount spent and a description
21 of the expenditure. The list shall be separated into the
22 following categories:

- 23 (a) meals and beverages;
- 24 (b) other entertainment expenditures;
- 25 (c) gifts; and

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1 (d) other expenditures;
2 (2) each political contribution made,
3 identified by amount, date and name of the candidate or ballot
4 issue supported or opposed; and

5 (3) the names, addresses and occupations of
6 other contributors and the amounts of their separate political
7 contributions if the lobbyist or lobbyist's employer delivers
8 directly or indirectly separate contributions from those
9 contributors in excess of five hundred dollars (\$500) in the
10 aggregate for each election to a candidate, a campaign
11 committee or anyone authorized by a candidate to receive funds
12 on the candidate's behalf.

13 B. If the expenditure report is filed
14 electronically, the report shall be electronically
15 authenticated by the lobbyist or the lobbyist's employer using
16 an electronic signature as prescribed by the secretary of state
17 in conformance with the Electronic Authentication of Documents
18 Act and the Uniform Electronic Transactions Act. For the
19 purposes of the Lobbyist Regulation Act, a report that is
20 electronically authenticated in accordance with the provisions
21 of this subsection shall be deemed to have been subscribed and
22 sworn to by the lobbyist or the lobbyist's employer that is
23 required to file the report.

24 C. In identifying expenditures pursuant to the
25 provisions of Paragraph (1) of Subsection A of this section,

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1 any individual expenditure that is more than the threshold
2 level established in the Internal Revenue Code of 1986, as
3 amended, that must be reported separately to claim a business
4 expense deduction, as published by the secretary of state,
5 shall be identified by amount, date, purpose, type of
6 expenditure and name of the person who received or was
7 benefited by the expenditure; provided, in the case of special
8 events, including parties, dinners, athletic events,
9 entertainment and other functions, to which all members of the
10 legislature, to which all members of either house or any
11 legislative committee or to which all members of a board or
12 commission are invited, expenses need not be allocated to each
13 individual who attended, but the date, location, name of the
14 body invited and total expenses incurred shall be reported.

15 D. The reports required pursuant to the provisions
16 of the Lobbyist Regulation Act shall be filed:

17 (1) by January 15 for all expenditures and
18 political contributions made or incurred during the preceding
19 year and not previously reported;

20 (2) within forty-eight hours for each separate
21 expenditure made or incurred during a legislative session that
22 was for five hundred dollars (\$500) or more; and

23 (3) by May 1 for all expenditures and
24 political contributions made or incurred through April 25 of
25 the current year and not previously reported.

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1 E. Except as may be required by Section 1 of this
2 2016 act, a lobbyist's personal living expenses and the
3 expenses incidental to establishing and maintaining an office
4 in connection with lobbying activities or compensation paid to
5 a lobbyist by a lobbyist's employer need not be reported.

6 F. A lobbyist or lobbyist's employer shall obtain
7 and preserve all records, accounts, bills, receipts, books,
8 papers and documents necessary to substantiate the financial
9 statements required to be made under the Lobbyist Regulation
10 Act for a period of two years from the date of filing of the
11 report containing such items. When the lobbyist is required
12 under the terms of the lobbyist's employment to turn over any
13 such records to the lobbyist's employer, responsibility for the
14 preservation of them as required by this section and the filing
15 of reports required by this section shall rest with the
16 employer. Such records shall be made available to the
17 secretary of state or attorney general upon written request.

18 G. A lobbyist's employer shall comply with the
19 provisions of Section 1 of this 2016 act and a lobbyist's
20 employer who also engages in lobbying shall also comply with
21 the provisions of this section.

22 H. An organization of two or more persons,
23 including an individual who makes any representation as being
24 an organization, that within one calendar year expends funds in
25 excess of two thousand five hundred dollars (\$2,500) not

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1 otherwise reported under the Lobbyist Regulation Act to conduct
2 an advertising campaign for the purpose of lobbying shall
3 register with the secretary of state within forty-eight hours
4 after expending two thousand five hundred dollars (\$2,500).
5 Such registration shall indicate the name of the organization
6 and the names, addresses and occupations of any of its
7 principals, organizers or officers and shall include the name
8 of any lobbyist or lobbyist's employer who is a member of the
9 organization. Within fifteen days after a legislative session,
10 the organization shall report the contributions, pledges to
11 contribute, expenditures and commitments to expend for the
12 advertising campaign for the purpose of lobbying, including the
13 names, addresses and occupations of the contributors, to the
14 secretary of state on a prescribed form."

15 SECTION 3. Section 2-11-7 NMSA 1978 (being Laws 1977,
16 Chapter 261, Section 7, as amended) is amended to read:

17 "2-11-7. REGISTRATION AND EXPENDITURE STATEMENT--LOBBYING
18 EXPENSE REPORT--PRESERVATION AS PUBLIC RECORD--ONLINE
19 REPORTS.--

20 A. Each registration and expenditure statement and
21 each lobbying expense report as required by the Lobbyist
22 Regulation Act shall be archived and accessible on the
23 secretary of state's lobbyist disclosure [~~web site~~] website for
24 a period of at least ten years from the date of filing as a
25 public record, open to public inspection at any reasonable

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1 time. Unless an action or prosecution is pending that requires
2 preserving the report or statement, it may be destroyed ten
3 years after the date of filing.

4 B. Lobbyist registrations, lobbying expense reports
5 and expenditure statements shall be [~~kept and maintained~~
6 posted on the secretary of state's lobbyist disclosure [~~web~~
7 site] website within forty-eight hours of receipt, except that
8 each statement and report received during a legislative session
9 shall be posted within twenty-four hours of receipt. All
10 registrations, reports and statements shall be available in
11 searchable and downloadable formats. The secretary of state
12 shall update the [~~web site~~] website no less than monthly
13 throughout the year and as expeditiously as possible when the
14 legislature is in session.

15 C. For the purposes of this section, "accessible"
16 means, with respect to the secretary of state's lobbyist
17 disclosure [~~web site~~] website, that all records are easily
18 searchable, sortable and downloadable by the public."