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SENATE BILL 225

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Jeff Steinborn

AN ACT

RELATING TO LOBBYIST REGULATION; REQUIRING ESTIMATED LOBBYING  
EXPENSE REPORTS TO BE FILED BY LOBBYISTS' EMPLOYERS; REQUIRING  
REPORTS TO BE POSTED ONLINE.

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

18                   (1) [~~each expenditure of one hundred dollars~~  
19 ~~(\$100.00) or more~~] the total expenditures made or incurred by  
20 the employer or lobbyist for each recipient during the covered  
21 reporting period, [~~indicating the amount spent and a~~  
22 ~~description of the expenditure. The list shall be~~] separated  
23 into the following categories:

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

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1     ~~[and]~~

2                                     (c) gifts; and

3                                     (d) other expenditures;

4                                     (2) each political contribution made, and  
5 whether the contribution is from the lobbyist's employer or the  
6 lobbyist on the lobbyist's own behalf, identified by amount,  
7 date and name of the candidate or ballot issue supported or  
8 opposed; and

9                                     (3) the names, addresses, employers and  
10 occupations of other contributors and the amounts of their  
11 separate political contributions if the lobbyist or lobbyist's  
12 employer delivers directly or indirectly separate contributions  
13 from those contributors to a candidate, a campaign committee or  
14 anyone authorized by a candidate to receive funds on the  
15 candidate's behalf.

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

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1 file the report.

2 C. In identifying expenditures pursuant to the  
3 provisions of Paragraph (1) of Subsection A of this section, in  
4 the case of special events, including parties, dinners,  
5 athletic events, entertainment and other functions, to which  
6 all members of the legislature, to which all members of either  
7 house or any legislative committee or to which all members of a  
8 board or commission are invited, expenses need not be allocated  
9 to each individual who attended, but the date, location, name  
10 of the body invited and total expenses incurred shall be  
11 reported.

12 D. A lobbyist who accepts compensation for lobbying  
13 but does not incur expenditures or make political contributions  
14 during a reporting period may file a statement of no activity  
15 in lieu of a full report for that period in accordance with the  
16 reporting schedule in Subsection E of this section.

17 E. The reports required pursuant to the provisions  
18 of the Lobbyist Regulation Act shall be filed:

19 (1) by [~~11:59 p.m.~~] midnight on January 15 for  
20 all expenditures and political contributions made or incurred  
21 during the preceding year and not previously reported;

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

25 (3) by [~~11:59 p.m.~~] midnight on the first

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1 Wednesday after the first Monday in May for all expenditures  
2 and political contributions made or incurred through the first  
3 Monday in May of the current year and not previously reported;  
4 and

5 (4) by [~~11:59 p.m.~~] midnight on the first  
6 Wednesday after the first Monday in October for all  
7 expenditures and political contributions made or incurred  
8 through the first Monday in October of the current year and not  
9 previously reported.

10 F. Except as may be required by Section 1 of this  
11 2017 act, a lobbyist's personal living expenses and the  
12 expenses incidental to establishing and maintaining an office  
13 in connection with lobbying activities or compensation paid to  
14 a lobbyist by a lobbyist's employer need not be reported.

15 G. A lobbyist or lobbyist's employer shall obtain  
16 and preserve all records, accounts, bills, receipts, books,  
17 papers and documents necessary to substantiate the financial  
18 statements required to be made under the Lobbyist Regulation  
19 Act for a period of two years from the date of filing of the  
20 report containing such items. When the lobbyist is required  
21 under the terms of the lobbyist's employment to turn over any  
22 such records to the lobbyist's employer, responsibility for the  
23 preservation of them as required by this section and the filing  
24 of reports required by this section shall rest with the  
25 employer. Such records shall be made available to the

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1 secretary of state or attorney general upon written request.

2 H. A lobbyist's employer shall comply with the  
3 provisions of Section 1 of this 2017 act and a lobbyist's  
4 employer who also engages in lobbying shall also comply with  
5 the provisions of this section. A lobbyist and the lobbyist's  
6 employer shall coordinate their reporting to ensure that the  
7 contributions and expenditures that each have reported are not  
8 duplicative.

9 I. An organization of two or more persons,  
10 including an individual who makes any representation as being  
11 an organization, that within one calendar year expends funds in  
12 excess of two thousand five hundred dollars (\$2,500) not  
13 otherwise reported under the Lobbyist Regulation Act to conduct  
14 an advertising campaign for the purpose of lobbying shall  
15 register with the secretary of state within forty-eight hours  
16 after expending two thousand five hundred dollars (\$2,500).  
17 Such registration shall indicate the name of the organization  
18 and the names, addresses and occupations of any of its  
19 principals, organizers or officers and shall include the name  
20 of any lobbyist or lobbyist's employer who is a member of the  
21 organization. Within fifteen days after a legislative session,  
22 the organization shall report the contributions, pledges to  
23 contribute, expenditures and commitments to expend for the  
24 advertising campaign for the purpose of lobbying, including the  
25 names, addresses, employers and occupations of the

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1 contributors, to the secretary of state on a prescribed form."

2 SECTION 3. That version of Section 2-11-7 NMSA 1978  
3 (being Laws 1977, Chapter 261, Section 7, as amended) that is  
4 to become effective on December 15, 2017 is amended to read:

5 "2-11-7. REGISTRATION AND EXPENDITURE REPORT--LOBBYING  
6 EXPENSE REPORT--PRESERVATION AS PUBLIC RECORD--ONLINE  
7 REPORTS.--

8 A. Each registration and expenditure report and  
9 each lobbying expense report as required by the Lobbyist  
10 Regulation Act shall be archived and accessible on the  
11 secretary of state's lobbyist disclosure website for a period  
12 of at least ten years from the date of filing as a public  
13 record, open to public inspection at any reasonable time.  
14 Unless an action or prosecution is pending that requires  
15 preserving the report or statement, it may be destroyed ten  
16 years after the date of filing.

17 B. Lobbyist registrations, lobbying expense reports  
18 and expenditure reports shall be:

19 (1) kept and maintained on the secretary of  
20 state's lobbyist disclosure website and shall be available in  
21 searchable and downloadable formats; and

22 (2) posted on the website within forty-eight  
23 hours of receipt, except that each statement and report  
24 received during a legislative session shall be posted within  
25 twenty-four hours of receipt.

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1           C. With respect to the secretary of state's  
2 lobbyist disclosure website, all items in the records shall be  
3 easily searchable, sortable and downloadable by the public to  
4 the extent technically practicable.

5           D. The secretary of state shall ensure that  
6 contributions reported by persons pursuant to the Lobbyist  
7 Regulation Act are reported in a manner that is nonduplicative  
8 and as consistent as practicable with the reporting  
9 requirements of the Campaign Reporting Act. To the extent  
10 possible, the electronic reporting system used for registration  
11 and reporting required by the Lobbyist Regulation Act shall be  
12 integrated with the electronic reporting system used for  
13 compliance with the Campaign Reporting Act.

14           E. Reporting individuals under the Campaign  
15 Reporting Act shall receive automatic electronic notice of the  
16 contributions to them reported by lobbyists and lobbyists'  
17 employers within twenty-four hours of the filing of each  
18 expenditure report."

19           **SECTION 4. EFFECTIVE DATE.**--The effective date of the  
20 provisions of this act is December 15, 2017.