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FISCAL IMPACT REPORT

SPONSOR <u>Steinborn/Schmedes/Garratt</u>	LAST UPDATED _____
	ORIGINAL DATE <u>02/27/23</u>
SHORT TITLE <u>Advertising Campaigns & Lobbyist Compensation</u>	BILL NUMBER <u>Senate Bill 217</u>
	ANALYST <u>Hitzman</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No Fiscal Impact	Indeterminate but Minimal	Indeterminate but Minimal	Indeterminate but Minimal	Nonrecurring	General Fund/State Election Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to SB218 & SB34

Sources of Information

LFC Files

Responses Received From
 Secretary of State (SOS)
 State Ethics Commission (SEC)
 New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Senate Bill 217

Senate Bill 217 (SB217) amends the Lobbyist Regulation Act to add a definition of “advertising campaign,” meaning a notice that appears in public media or in marketing materials intended to influence legislative or official action.

The bill removes gendered language referring to the word “his” and instead replaces the term with non-gendered titles, such as “the individual.” The bill also clarifies requirements that apply for “lobbyist” employers.

The bill adds that lobbyist expenditure reports should include the total compensation and expenses paid or owed to a lobbyist or the portion of the salary, fee or retainer that is reasonably allocated for lobbying. The bill adds that lobbyist personal living expenses do not need to be reported unless directly paid for or reimbursed to a lobbyist by a lobbyist employer. The bill requires reporting to the Secretary of State’s Office within 48-hours after expensing \$2,500. The

bill also requires the Secretary of State to determine the prescribed form. The bill also strikes language requiring reports be made within 15 days after a legislative session.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The Secretary of State’s Office (SOS) may incur some administrative cost for reviewing and publishing the reports and ensuring compliance with the Lobbyist Regulation Act, but it is likely those costs are minimal and could be absorbed into the agency operating budget. SOS notes the reports are regularly filed each May, October, and January for a filing period.

The State Ethics Commission (SEC) notes its roles in investigating and adjudicating complaints alleging violations of the Lobbyist Regulation Act. SEC notes because the “bill creates new substantive disclosure requirements, the Commission may receive additional complaints alleging violations of those duties.” However, SEC notes “unless those complaints are voluminous, the impact to the Commission’s operating budget is minimal.”

SIGNIFICANT ISSUES

SOS notes:

By adding a definition of “advertising campaign” the bill provides more clarity to what activities constitute an advertising campaign under current law. Furthermore, the proposed changes to Section 2-11-6 (I) propose to modify when an organization is required to file a disclosure report regarding an advertising campaign such that it brings the deadline in line with other high dollar disclosure requirements imposed on all other registered lobbyists during the legislative session.

Further, by requiring disclosure and reporting on lobbyist compensation, there could be a resulting increase in transparency and accountability in government where individuals are able to see the financial interests of those lobbyists and what their employers are compensating them both directly and via reimbursements for living expenses, which may have previously gone unreported.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The bill relates to SB218 which creates an additional, separate section of the Lobbyist Registration Act, and SB34, which creates an additional, separate section of the Lobbyist Registration Act which would establish a “cooling off” period for former legislators, prohibiting them from acting as paid lobbyists for a period of two years following their service.

TECHNICAL ISSUES

The Attorney General’s Office (NMAG) provides the following:

The definition of “advertising campaign” provided in the bill is currently as follows:

“advertising campaign” means a notice that appears in public media, including radio, television, newspapers, periodicals and internet websites, or in marketing materials that is intended to influence legislative or official action;

The language might read more easily and clearly if phrased instead as:

“advertising campaign” means a notice that is intended to influence legislative or official action and that appears in public media, including radio, television, newspapers, periodicals and internet websites, or in marketing materials.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

NMAG notes: “Under the status quo, the lack of a definition of ‘advertising campaign’ may create a legal issue. If the provision of the act concerning advertising campaigns is enforced, the party against whom the law is enforced may challenge the statute as vague or overbroad. A definition for ‘advertising campaign’ would help avoid such a challenge.”

JH/rl/ne