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HOUSE BILL 140

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Elizabeth "Liz" Thomson and Jeff Steinborn

AN ACT

RELATING TO LOBBYIST REGULATION; AMENDING REPORTING
REQUIREMENTS; 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 that 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

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1 shall include:

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

5 (2) a sworn statement setting forth the amount
6 of total lobbying expenses actually incurred from April 26
7 through December 31 of the preceding year; provided that no
8 statement is required pursuant to this paragraph unless:

9 (a) the total lobbying expenses actually
10 incurred from April 26 through December 31 of the preceding
11 year differ by more than ten percent from the amount of
12 lobbying expenses estimated for that period; or

13 (b) lobbying expenses were actually
14 incurred from April 26 through December 31 of the preceding
15 year and no report was filed estimating lobbying expenses for
16 that period.

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

23 (1) a sworn statement that sets forth the
24 total estimated lobbying expenses that will be incurred from
25 April 26 through December 31 of the current year; and

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1 (2) a sworn statement setting forth the amount
2 of total lobbying expenses actually incurred from January 1
3 through April 25 of the current year; provided that no
4 statement is required pursuant to this paragraph unless:

5 (a) the total lobbying expenses actually
6 incurred from January 1 through April 25 of the current year
7 differ by more than ten percent from the amount of lobbying
8 expenses estimated for that period; or

9 (b) lobbying expenses were actually
10 incurred from January 1 through April 25 of the current year
11 and no report was filed estimating lobbying expenses for that
12 period.

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

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

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

25 D. If the estimated lobbying expense report is

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

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

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

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

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

20 (4) all compensation paid to a lobbyist for
21 lobbying;

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

25 (6) any other lobbying expenditures made by

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1 the lobbyist's employer and not included in Paragraphs (1)
2 through (5) of this subsection."

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

5 "2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--
6 REPORTING PERIODS.--

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

20 (1) each expenditure of one hundred dollars
21 [~~(\$100.00)~~] (\$100) or more made or incurred by the employer or
22 lobbyist during the covered reporting period indicating the
23 amount spent and a description of the expenditure. The list
24 shall be separated into the following categories:

25 (a) meals and beverages;

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1 (b) other entertainment expenditures;

2 and

3 (c) 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 2019 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 [~~who~~] shall comply with
3 the provisions of Section 1 of this 2019 act, and a lobbyist's
4 employer that 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~~] that is a member
21 of the organization. Within fifteen days after a legislative
22 session, the organization shall report the contributions,
23 pledges to contribute, expenditures and commitments to expend
24 for the advertising campaign for the purpose of lobbying,
25 including the names, addresses, employers and occupations of

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

3 SECTION 3. Section 2-11-7 NMSA 1978 (being Laws 1977,
4 Chapter 261, Section 7, as amended) 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~~] a 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, 2019.