

HOUSE BILL 105

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

INTRODUCED BY

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This document incorporates committee amendments adopted during standing committee(s) consideration of this measure. It is a tool to show the amendments in context and is not to be used for introduction, amendment or substitution.

AN ACT

RELATING TO SECRETARY OF STATE REPORTS; ESTABLISHING REQUIREMENTS FOR THE ELECTRONIC REPORTING AND PUBLIC ACCESSIBILITY OF REPORTS OF POLITICAL CONTRIBUTIONS AND LOBBYING EXPENDITURES; CHANGING REPORTING REQUIREMENTS; CREATING A FUND; ~~MAKING AN APPROPRIATION.~~

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

SECTION 1. Section 1-19-27 NMSA 1978 (being Laws 1979, Chapter 360, Section 3, as amended) is amended to read:

"1-19-27. REPORTS REQUIRED--~~[PROPER FILING OFFICER]~~
ELECTRONIC REPORTING SYSTEM--CAMPAIGN REPORTING SYSTEM FUND.--

~~[A. Except for those candidates and public officials who file a statement of no activity, all reporting individuals shall file with the proper filing officer a report of expenditures and contributions on a prescribed form.~~

.202592.3 Amendments in Context

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~~B. The proper filing officer for filing reports of expenditures and contributions by a political committee is the secretary of state.~~

~~C. The proper filing officer for filing reports of expenditures and contributions or statements of no activity is the secretary of state for all candidates and public officials.~~

~~D.]~~ A. All reporting individuals shall file with the secretary of state reports of expenditures and contributions and statements of no activity when required by the Campaign Reporting Act in an electronic format prescribed by the secretary of state.

B. The secretary of state shall develop or contract for services to develop an electronic reporting system for ~~[receiving and for public inspection of]~~ reporting individuals to register with the secretary of state and file all reports of expenditures and contributions and statements of no activity ~~[to]~~ as required by the Campaign Reporting Act. The electronic reporting system shall:

(1) enable a person to register and file reports online by ~~[filling out forms on]~~ electronically submitting the relevant data to the secretary of state's ~~[web site; and]~~ website;

(2) for the submission of data, use unique identifiers and master drop-down lists of candidates, political committees, lobbyists and, to the extent reasonably possible,

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master lists of contributors, occupations, expenditure types and contribution types;

(3) provide the data in open, structured formats for easy search and download to allow for public inspection of all report data from the secretary of state's website;

(4) provide for cross-checking and compliance features;

(5) provide for online registration and fee payment for political committees and lobbyists;

(6) integrate, to the extent possible, with the reporting required by the Lobbyist Regulation Act;

(7) to the extent possible, provide for a mechanism to directly upload the required data from other third-party tools; and

(8) provide for encrypted transmissions.

C. Registration fees collected by the secretary of state from lobbyists and political committees shall be deposited in the "campaign reporting system fund", which is hereby created in the state treasury. Money in the fund is appropriated to the secretary of state for the purposes of paying for upgrades, maintenance and operation of the electronic reporting system. Money remaining in the fund at the end of a fiscal year shall not revert to the general fund."

SECTION 2. Section 2-11-3 NMSA 1978 (being Laws 1977,

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Chapter 261, Section 3, as amended) is amended to read:

"2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--
MODIFICATION TO STATEMENT.--

A. In the month of January prior to each regular session or before any service covered by the Lobbyist Regulation Act commences, any individual who is initially employed or retained as a lobbyist shall register with the secretary of state by paying an annual filing fee of fifty dollars (\$50.00) for each of the lobbyist's employers and by filing a single registration statement under oath [~~on a prescribed form showing~~] in an electronic format as prescribed by the secretary of state that states:

- (1) the lobbyist's full name, permanent business address and business address while lobbying; and
- (2) the name and address of each of the lobbyist's employers.

B. No registration fee shall be required of individuals receiving only reimbursement of personal expenses and no other compensation or salary for lobbying. [~~No expenditure statement required by~~] Except as required by Subsection D of Section 2-11-6 NMSA 1978, no expenditure report shall be required if the lobbyist anticipates making or incurring and makes or incurs no expenditures or political contributions under Section 2-11-6 NMSA 1978. The lobbyist shall indicate in the lobbyist's registration statement whether

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those circumstances apply to the lobbyist.

C. ~~[No more than five days after a registration is filed]~~ Upon receipt of the online registration and payment, the secretary of state shall publish the registration ~~[statement]~~ information on the secretary of state's lobbying disclosure ~~[web site]~~ website.

D. For each employer listed in Paragraph (2) of Subsection A of this section, the lobbyist shall file the following information:

(1) a full disclosure of the sources of funds used for lobbying;

(2) ~~[a written statement]~~ an affirmation from each of the lobbyist's employers authorizing the lobbyist to lobby on the employer's behalf;

(3) a brief description of the matters in reference to which the service is to be rendered; and

(4) the name and address of the person, if other than the lobbyist or the lobbyist's employer, who will have custody of the accounts, bills, receipts, books, papers and documents required to be kept under the provisions of the Lobbyist Regulation Act.

E. For each succeeding year that an individual is employed or retained as a lobbyist by the same employer, and for whom all the information disclosed in the initial registration statement remains substantially the same, the

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lobbyist shall file a simple annual registration renewal in January and pay the fifty-dollar (\$50.00) filing fee for each of the lobbyist's employers together with a short, abbreviated prescribed form for renewal.

F. Whenever there is a modification of the facts required to be set forth by this section or there is a termination of the lobbyist's employment as a lobbyist before the end of the calendar year, the lobbyist shall notify the secretary of state using the electronic registration system within one ~~[month]~~ week of such occurrence and shall furnish full information concerning the modification or termination. If the lobbyist's employment terminates at the end of a calendar year, no separate termination ~~[report]~~ need be ~~[filed]~~ reported."

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

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

A. Each lobbyist who receives compensation or lobbyist's employer who makes or incurs expenditures or makes political contributions for the benefit of or in opposition to a state legislator or candidate for the state legislature, a state public officer or candidate for state public office, a board or commission member or state employee who is involved in an official action affecting the lobbyist's employer or in

.202592.3 Amendments in Context

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support of or in opposition to a ballot issue or pending legislation or official action shall file an expenditure report with the secretary of state [~~on a prescribed form or in an electronic format~~] using an electronic reporting system approved by the secretary of state [~~and published by the secretary of state~~] in accordance with Section 2-11-7 NMSA 1978. The expenditure report shall include a sworn statement that sets forth:

(1) [~~the cumulative total of the expenditures~~] each expenditure of ~~seventy-five dollars (\$75.00)~~ one hundred dollars (\$100.00) or more made or incurred by the employer or lobbyist during the covered reporting period, indicating the amount spent and a description of the expenditure. The list shall be separated into the following categories:

(a) meals and beverages;

(b) other entertainment expenditures;

~~(c) gifts; and~~

~~(d)~~ other expenditures;

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

(3) the names, addresses, employers and occupations of other contributors and the amounts of their

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separate political contributions if the lobbyist or lobbyist's employer delivers directly or indirectly separate contributions from those contributors [~~in excess of five hundred dollars (\$500) in the aggregate for each election~~] to a candidate, a campaign committee or anyone authorized by a candidate to receive funds on the candidate's behalf.

B. [~~If~~] The expenditure report [~~is~~] shall be filed electronically [~~the report~~] and shall be electronically authenticated by the lobbyist or the lobbyist's employer using an electronic signature as prescribed by the secretary of state in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. For the purposes of the Lobbyist Regulation Act, a report that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the lobbyist or the lobbyist's employer that is required to file the report.

C. In identifying expenditures pursuant to the provisions of Paragraph (1) of Subsection A of this section, [~~any individual expenditure that is more than the threshold level established in the Internal Revenue Code of 1986, as amended, that must be reported separately to claim a business expense deduction, as published by the secretary of state, shall be identified by amount, date, purpose, type of expenditure and name of the person who received or was~~

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~~benefited by the expenditure; provided]~~ in the case of special events, including parties, dinners, athletic events, entertainment and other functions, to which all members of the legislature, to which all members of either house or any legislative committee or to which all members of a board or commission are invited, expenses need not be allocated to each individual who attended, but the date, location, name of the body invited and total expenses incurred shall be reported.

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

~~[D-]~~ E. The reports required pursuant to the provisions of the Lobbyist Regulation Act shall be filed:

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

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

(3) by ~~[May 1]~~ 11:59 p.m. on the first Wednesday after the first Monday in May for all expenditures and political contributions made or incurred through ~~[April 25]~~ the first Monday in May of the current year and not previously

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reported; and

(4) by 11:59 p.m. on the first Wednesday after the first Monday in October for all expenditures and political contributions made or incurred through the first Monday in October of the current year and not previously reported.

E. A lobbyist's personal living expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer need not be reported.

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

G. A lobbyist's employer who also engages in lobbying shall also comply with the provisions of this section. A lobbyist and the lobbyist's employer shall coordinate their reporting to ensure that the contributions and expenditures

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that each have reported are not duplicative.

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

SECTION 4. Section 2-11-7 NMSA 1978 (being Laws 1977, Chapter 261, Section 7, as amended) is amended to read:

"2-11-7. REGISTRATION AND EXPENDITURE [STATEMENT]
REPORT--PRESERVATION AS PUBLIC RECORD--ONLINE REPORTS.--

A. Each registration and expenditure [~~statement~~]
report as required by the Lobbyist Regulation Act shall be

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archived and accessible on the secretary of state's lobbyist disclosure ~~[web site]~~ website for a period of at least ten years from the date of filing as a public record, open to public inspection at any reasonable time. Unless an action or prosecution is pending that requires preserving the report, it may be destroyed ten years after the date of filing.

B. Lobbyist registrations and expenditure ~~[statements]~~ reports shall be kept and maintained on the secretary of state's lobbyist disclosure ~~[web site]~~ website and shall be available in searchable and downloadable formats. ~~[The secretary of state shall update the web site no less than monthly throughout the year and as expeditiously as possible when the legislature is in session.]~~

C. ~~[For the purposes of this section, "accessible" means]~~ With respect to the secretary of state's lobbyist disclosure ~~[web site, that]~~ website, all items in the records ~~[are]~~ shall be easily searchable, sortable and downloadable by the public to the extent technically practicable.

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

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integrated with the electronic reporting system used for compliance with the Campaign Reporting Act.

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

SECTION 5. Section 2-11-8.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 23, as amended) is amended to read:

"2-11-8.1. RESTRICTIONS ON CAMPAIGN ACTIVITIES AND CONTRIBUTIONS.--

A. No lobbyist may serve as a campaign ~~chairman~~ chair, treasurer or fundraising ~~chairman~~ chair for a candidate for the legislature or ~~a statewide~~ other state office.

B. It is unlawful during the prohibited period for any lobbyist or lobbyist's employer to contribute to or act as an agent or intermediary for political contributions to or arrange for the making of political contributions to the campaign funds of any statewide elected official or legislator or any candidate for those offices.

C. For purposes of this section, "prohibited period" is that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on:

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- (1) the day the session ends for:
 - (a) any statewide elected official or candidate for statewide office except the governor; and
 - (b) a legislator or any candidate for the legislature; and
- (2) the twentieth day following the adjournment of the regular or special session for the governor or candidate for governor."

~~SECTION 6. APPROPRIATION.--Nine hundred eighty-five thousand dollars (\$985,000) is appropriated from the general fund to the secretary of state for expenditure in fiscal years 2017 and 2018 for an electronic reporting and registration system to meet the requirements of the Lobbyist Regulation Act and the Campaign Reporting Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2018 shall revert to the general fund.~~

SECTION 76. EFFECTIVE DATE.--

- A. The effective date of the provisions of Sections 3, 5 and 6 of this act is July 1, 2016.
- B. The effective date of the provisions of Sections 1, 2 and 4 of this act is December 15, 2017.