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HOUSE BILL 105

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

INTRODUCED BY

James E. Smith and Daniel A. Ivey-Soto

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.~~

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

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

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

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

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

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

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

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

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

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

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

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

16 (8) provide for encrypted transmissions.

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

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

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

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

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

13 (1) the lobbyist's full name, permanent
14 business address and business address while lobbying; and

15 (2) the name and address of each of the
16 lobbyist's employers.

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

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1 those circumstances apply to the lobbyist.

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

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

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

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

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

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

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

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

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

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

17 "2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--
18 REPORTING PERIODS.--

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

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

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

- 15 (a) meals and beverages;
- 16 (b) other entertainment expenditures;
- 17 (c) gifts; and
- 18 (d) other expenditures;

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

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

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

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

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

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

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

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

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

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

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

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1 reported; and

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

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

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

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

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1 that each have reported are not duplicative.

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

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

22 "2-11-7. REGISTRATION AND EXPENDITURE [STATEMENT]
23 REPORT--PRESERVATION AS PUBLIC RECORD--ONLINE REPORTS.--

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

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

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

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

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

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

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

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

10 "2-11-8.1. RESTRICTIONS ON CAMPAIGN ACTIVITIES AND
11 CONTRIBUTIONS.--

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

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

22 C. For purposes of this section, "prohibited
23 period" is that period beginning January 1 prior to any regular
24 session of the legislature or, in the case of a special
25 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 7. 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.