

LFC Requester:	Hilla, Emily
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1/23/24
Bill No: HB 85

Sponsor: Rep. Joy Garratt
Short Title: Lobbying Activity Report Requirements

Agency Name and Code AOC 218
Number: _____
Person Writing Kathleen Sabo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 85 enacts a new section of the Lobbyist Regulation Act (LRA), Section 2-11-1 NMSA 1978 et. seq., to require a lobbyist or lobbyist’s employer required to file an expenditure report or a registration statement to file an activity report with the Secretary of State (SOS) that discloses the lobbyist’s or lobbyist’s employer’s lobbying activity on legislation, including lobbying on the development of legislation prior to its introduction in a legislative session and any lobbying on the development of legislation that was not introduced in a legislative session. Under HB 85, reporting is required on a piece of legislation once per legislative session, unless the lobbyist’s or lobbyist’s employer’s position on the legislation has changed.

HB 85 requires the lobbying report to identify, at a minimum:

- (1) Specific legislation lobbied;
- (2) Lobbyist’s or lobbyist’s employer’s support, opposition or other position taken on the legislation and whether the support, opposition or other position changed; and
- (3) The name of the lobbyist’s employer that lobbied on the legislation, either directly or by the registered lobbyist.

HB 85 requires a lobbyist or lobbyist’s employer who commences lobbying on legislation after the adjournment of a legislative session to file a lobbying report prior to the end of the time period in which the governor may act on legislation.

HB 85 requires the lobbying activity reported for each specific piece of legislation to be included or linked on the legislature’s website for that specific piece of legislation.

HB 85 amends Section 2-11-7 NMSA 1978, to include lobbying activity reports within the requirements for archiving and accessibility on the SOS’s lobbyist disclosure website in searchable and downloadable formats.

The effective date of the Act is January 1, 2026.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced investigations by the State Ethics Commission (SEC)

resulting in petitions to the court for subpoenas and applications for orders enforcing subpoenas and compelling compliance, as well any court actions by the Secretary of State to remit fees. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

- 1) HB 85 clears up an ambiguity that was noted by the Office of the Attorney General when analyzing 2023's similar SB 218, in that the amendment requires disclosure of lobbying on the development of legislation that was not introduced in a legislative session.
- 2) Section 2-11-9 NMSA 1978 provides a fine of up to \$5,000 and a potential revocation of a lobbyist's registration or the enjoining of lobbying activities for up to 3 years for any person who knowingly and willfully violates any of the provisions of the LRA, in addition to any other penalties that may be assessed.

Additionally, Section 2-11-8.3 NMSA 1978 provides the State Ethics Commission (SEC) with jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the LRA in accordance with the provisions of that Act. Section 10-16G-10 NMSA 1978, within the State Ethics Commission Act (SECA) permits the commission to petition a district court for a subpoena to obtain testimony or the production of tangible evidence and for an order enforcing the subpoena and compelling compliance.

Section 2-11-8.2(E) NMSA 1978 permits the SOS to file a court action to remit outstanding fines for good cause.

- 3) As an example, Mass. Gen. Laws Ann. Ch. 3, Section 43 requires the following information from a lobbyist:

(1) the identification of each client for whom the legislative or executive agent provided lobbying services; (2) a list of all bill numbers and names of legislation and other governmental action that the executive or legislative agent acted to promote, oppose or influence; (3) a statement of the executive or legislative agent's position, if any, on each such bill or other governmental action; (4) the identification of the client or clients on whose behalf the executive or legislative agent was acting with respect to each such bill or governmental action; (5) the amount of compensation received for executive or legislative lobbying from each client with respect to such lobbying services; and (6) all direct business associations with public officials.

See <https://www.ncsl.org/ethics/lobbyist-activity-report-requirements> for a state-by-state listing from the National Conference of State Legislatures (NCSL) of lobbyist activity report requirements, as of May 15, 2018.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See "Fiscal Implications," above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS