

1 HOUSE BILL 155

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Jeff Steinborn

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10 AN ACT

11 RELATING TO LOBBYIST REGULATION; REQUIRING CERTAIN REPORTS TO
12 BE MADE BY LOBBYISTS' EMPLOYERS; CHANGING REPORTING
13 REQUIREMENTS; EXTENDING THE RETENTION PERIOD FOR REPORTS;
14 REQUIRING REPORTS TO BE POSTED ONLINE; CHANGING REGISTRATION
15 FEES.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 2-11-3 NMSA 1978 (being Laws 1977,
19 Chapter 261, Section 3, as amended) is amended to read:

20 "2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--
21 MODIFICATION TO STATEMENT.--

22 A. In the month of January prior to each regular
23 session or before any service covered by the Lobbyist
24 Regulation Act commences, any individual who is initially
25 employed or retained as a lobbyist shall register with the

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1 secretary of state by paying an annual filing fee of [~~twenty-~~
2 ~~five dollars (\$25.00)~~] fifty dollars (\$50.00) for each of the
3 lobbyist's employers and by filing a single registration
4 statement under oath on a prescribed form showing:

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

7 (2) the name and address of each of the
8 lobbyist's employers.

9 B. No registration fee shall be required of
10 individuals receiving only reimbursement of personal expenses
11 and no other compensation or salary for lobbying. No
12 expenditure statement required by Section 2-11-6 NMSA 1978
13 shall be required if the lobbyist anticipates making or
14 incurring and makes or incurs no expenditures or political
15 contributions under Section 2-11-6 NMSA 1978. The lobbyist
16 shall indicate in [~~his~~] the lobbyist's registration statement
17 whether those circumstances apply to [~~him~~] the lobbyist.

18 C. No more than five days after a registration is
19 filed, the secretary of state shall publish the registration
20 statement on the secretary of state's lobbying disclosure web
21 site.

22 [~~G-~~] D. For each employer listed in Paragraph (2)
23 of Subsection A of this section, the lobbyist shall file the
24 following information:

25 (1) a full disclosure of the sources of funds

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1 used for lobbying;

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

5 (3) a brief description of the matters in
6 reference to which the service is to be rendered, including the
7 legislative or administrative issue for which the lobbyist is
8 employed; and

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

14 [~~D-~~] E. For each succeeding year that an individual
15 is employed or retained as a lobbyist by the same employer, and
16 for whom all the information disclosed in the initial
17 registration statement remains substantially the same, the
18 lobbyist shall file a simple annual registration renewal in
19 January and pay the [~~twenty-five-dollar (\$25.00)]~~ fifty-dollar
20 (\$50.00) filing fee for each of the lobbyist's employers
21 together with a short, abbreviated prescribed form for renewal.

22 [~~E-~~] F. Whenever there is a modification of the
23 facts required to be set forth by this section or there is a
24 termination of the lobbyist's employment as a lobbyist before
25 the end of the calendar year, the lobbyist shall notify the

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1 secretary of state within one month of such occurrence and
2 shall furnish full information concerning the modification or
3 termination. If the lobbyist's employment terminates at the
4 end of a calendar year, no separate termination report need be
5 filed."

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

8 "2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--
9 REPORTING PERIODS.--

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

23 (1) the cumulative total of the expenditures
24 made or incurred [~~separated into categories that identify the~~
25 ~~total separate amounts spent on~~] by the employer or lobbyist

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1 during the covered reporting period, listed separately by each
2 recipient, indicating the amount spent and a description of the
3 expenditure. The list shall be separated into the following
4 categories:

5 (a) meals and beverages;

6 (b) other entertainment expenditures;

7 (c) gifts; and

8 (d) other expenditures;

9 (2) each political contribution made,
10 identified by amount, date and name of the candidate or ballot
11 issue supported or opposed; and

12 (3) the names, addresses and occupations of
13 other contributors and the amounts of their separate political
14 contributions if the lobbyist or lobbyist's employer delivers
15 directly or indirectly separate contributions from those
16 contributors in excess of [~~five hundred dollars (\$500)~~] one
17 hundred dollars (\$100) in the aggregate for each election to a
18 candidate, a campaign committee or anyone authorized by a
19 candidate to receive funds on the candidate's behalf.

20 B. If the expenditure report is filed
21 electronically, the report shall be electronically
22 authenticated by the lobbyist or the lobbyist's employer using
23 an electronic signature as prescribed by the secretary of state
24 in conformance with the Electronic Authentication of Documents
25 Act and the Uniform Electronic Transactions Act. For the

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1 purposes of the Lobbyist Regulation Act, a report that is
2 electronically authenticated in accordance with the provisions
3 of this subsection shall be deemed to have been subscribed and
4 sworn to by the lobbyist or the lobbyist's employer that is
5 required to file the report.

6 C. In identifying expenditures pursuant to the
7 provisions of Paragraph (1) of Subsection A of this section,
8 any individual expenditure that is more than the threshold
9 level established in the Internal Revenue Code of 1986, as
10 amended, that must be reported separately to claim a business
11 expense deduction, as published by the secretary of state,
12 shall be identified by amount, date, purpose, type of
13 expenditure and name of the person who received or was
14 benefited by the expenditure; provided, in the case of special
15 events, including parties, dinners, athletic events,
16 entertainment and other functions, to which all members of the
17 legislature, to which all members of either house or any
18 legislative committee or to which all members of a board or
19 commission are invited, expenses need not be allocated to each
20 individual who attended, but the date, location, name of the
21 body invited and total expenses incurred shall be reported.

22 D. The reports required pursuant to the provisions
23 of the Lobbyist Regulation Act shall be filed:

24 (1) by January 15 for all expenditures and
25 political contributions made or incurred during the preceding

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1 year and not previously reported;

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

5 (3) by May 1 for all expenditures and
6 political contributions made or incurred through April 25 of
7 the current year and not previously reported.

8 E. Except as may be required by Section 2-11-6.1
9 NMSA 1978, a lobbyist's personal living expenses and the
10 expenses incidental to establishing and maintaining an office
11 in connection with lobbying activities or compensation paid to
12 a lobbyist by a lobbyist's employer need not be reported.

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

25 G. ~~Any~~ A lobbyist's employer shall comply with

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1 the provisions of Section 2-11-6.1 NMSA 1978 and a lobbyist's
2 employer who also engages in lobbying shall also comply with
3 the provisions of [~~the Lobbyist Regulation Act~~] this section.

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

23 SECTION 3. A new section of the Lobbyist Regulation Act,
24 Section 2-11-6.1 NMSA 1978, is enacted to read:

25 "2-11-6.1. [NEW MATERIAL] ESTIMATED LOBBYING EXPENSE

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1 REPORTS TO BE FILED BY LOBBYISTS' EMPLOYERS.--

2 A. No later than January 15 of each year, a
3 lobbyist's employer who incurs lobbying expenses shall file an
4 estimated lobbying expense report with the secretary of state
5 on a prescribed form or in an electronic format approved by the
6 secretary of state. The estimated lobbying expense report
7 shall include:

8 (1) a sworn statement that sets forth the
9 total estimated lobbying expenses that will be incurred through
10 April 25 of the current year; and

11 (2) a sworn statement setting forth the amount
12 of total lobbying expenses actually incurred from April 25
13 through December 31 of the preceding year, provided that no
14 statement is required pursuant to this paragraph unless:

15 (a) the total lobbying expenses actually
16 incurred from April 25 through December 31 of the preceding
17 year differ by more than ten percent from the amount of
18 lobbying expenses estimated for that period; or

19 (b) lobbying expenses were actually
20 incurred from April 25 through December 31 of the preceding
21 year and no report was filed estimating lobbying expenses for
22 that period.

23 B. No later than May 1 of each year, a lobbyist's
24 employer who incurs lobbying expenses shall file an estimated
25 lobbying expense report with the secretary of state on a

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1 prescribed form or in an electronic format approved by the
2 secretary of state. The estimated lobbying expense report
3 shall include:

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

7 (2) a sworn statement setting forth the amount
8 of total lobbying expenses actually incurred through April 25
9 of the current year, provided that no statement is required
10 pursuant to this paragraph unless:

11 (a) the total lobbying expenses actually
12 incurred through April 25 of the current year differ by more
13 than ten percent from the amount of lobbying expenses estimated
14 for that period; or

15 (b) lobbying expenses were actually
16 incurred through April 25 of the current year and no report was
17 filed estimating lobbying expenses for that period.

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

20 (1) the lobbyist's employer shall amend the
21 amount of total estimated lobbying expenses stated in any
22 report filed pursuant to Subsection A or B of this section for
23 the period in which the lobbyist is initially employed or
24 retained; or

25 (2) if the lobbyist's employer has not filed a

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1 report for the period pursuant to Subsection A or B of this
2 section, the lobbyist's employer shall file an initial report
3 for the remainder of the reporting period in which the lobbyist
4 is initially employed or retained.

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

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

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

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

21 (3) other expenses incurred by a lobbyist that
22 are reimbursed by the lobbyist's employer, including living
23 expenses, expenses for maintaining an office and other expenses
24 incidental to lobbying;

25 (4) all compensation paid to a lobbyist for

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1 lobbying;

2 (5) if a lobbyist is an employee of the
3 lobbyist's employer, the salary paid to the lobbyist for the
4 time that the lobbyist is engaged in lobbying; and

5 (6) any other lobbying expenditures made by
6 the lobbyist's employer and not included in Paragraphs (1)
7 through (5) of this subsection."

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

10 "2-11-7. REGISTRATION AND EXPENDITURE STATEMENT--LOBBYING
11 EXPENSE REPORT--PRESERVATION AS PUBLIC RECORD--ONLINE
12 REPORTS.--

13 A. Each registration and expenditure statement and
14 each lobbying expense report as required by the Lobbyist
15 Regulation Act shall be [~~preserved by~~] archived and accessible
16 on the secretary of [state] state's lobbyist disclosure web
17 site for a period of [two] at least ten years from the date of
18 filing as a public record, open to public inspection at any
19 reasonable time. Unless an action or prosecution is pending
20 that requires preserving the report, it may be destroyed [two]
21 ten years after the date of filing.

22 B. Lobbyist registrations, statements and lobbying
23 expense reports shall be kept and maintained on the secretary
24 of state's lobbyist disclosure web site and shall be available
25 in searchable and downloadable formats. The secretary of state

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1 shall update the web site no less than monthly throughout the
2 year and as expeditiously as possible when the legislature is
3 in session.

4 C. For the purposes of this section, "accessible"
5 means, with respect to the secretary of state's lobbyist
6 disclosure web site, that all records are easily searchable,
7 sortable and downloadable by the public."

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