

1 SENATE BILL 311

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Jeff Steinborn

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10 AN ACT

11 RELATING TO LOBBYING; AMENDING THE LOBBYIST REGULATION ACT;
12 DEFINING "ADVERTISING CAMPAIGN"; REQUIRING LOBBYISTS TO REPORT
13 COMPENSATION RECEIVED FOR LOBBYING; MAKING TECHNICAL CHANGES TO
14 THE ADVERTISING CAMPAIGN REPORTING REQUIREMENTS.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

19 "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation
20 Act:

21 A. "advertising campaign" means a notice that
22 appears in public media, including radio, television,
23 newspapers, periodicals and internet websites, or in marketing
24 materials that is intended to influence legislative or official
25 action;

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1 ~~[A.]~~ B. "compensation" means any money, per diem,
2 salary, fee or portion thereof or the equivalent in services
3 rendered or in-kind contributions received or to be received in
4 return for lobbying services performed or to be performed;

5 ~~[B.]~~ C. "expenditure" means a payment, transfer or
6 distribution or obligation or promise to pay, transfer or
7 distribute any money or other thing of value, but does not
8 include a lobbyist's own personal living expenses and the
9 expenses incidental to establishing and maintaining an office
10 in connection with lobbying activities or compensation paid to
11 a lobbyist by a lobbyist's employer;

12 ~~[C.]~~ D. "legislative committee" means a committee
13 created by the legislature, including interim and standing
14 committees of the legislature;

15 ~~[D.]~~ E. "lobbying" means attempting to influence:
16 (1) a decision related to any matter to be
17 considered or being considered by the legislative branch of
18 state government or any legislative committee or any
19 legislative matter requiring action by the governor or awaiting
20 action by the governor; or

21 (2) an official action;

22 ~~[E.]~~ F. "lobbyist" means any individual who is
23 compensated for the specific purpose of lobbying; is designated
24 by an interest group or organization to represent it on a
25 substantial or regular basis for the purpose of lobbying; or in

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1 the course of [~~his~~] employment, is engaged in lobbying on a
2 substantial or regular basis. "Lobbyist" does not include:

3 (1) an individual who appears on [~~his~~] the
4 individual's own behalf in connection with legislation or an
5 official action;

6 (2) [~~any~~] an elected or appointed officer of
7 the state or its political subdivisions or an Indian tribe or
8 pueblo acting in [~~his~~] the officer's official capacity;

9 (3) an employee of the state or its political
10 subdivisions, specifically designated by an elected or
11 appointed officer of the state or its political subdivision,
12 who appears before a legislative committee or in a rulemaking
13 proceeding only to explain the effect of legislation or a rule
14 on [~~his~~] the designated employee's agency or political
15 subdivision, provided the elected or appointed officer of the
16 state or its political subdivision keeps for public inspection
17 and files with the secretary of state such designation;

18 (4) [~~any~~] a designated member of the staff of
19 an elected state official, provided the elected state official
20 keeps for public inspection and files with the secretary of
21 state such designation;

22 (5) a member of the legislature, the staff of
23 [~~any~~] a member of the legislature or the staff of [~~any~~] a
24 legislative committee when addressing legislation;

25 (6) [~~any~~] a witness called by a legislative

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1 committee or administrative agency to appear before that
2 legislative committee or agency in connection with legislation
3 or an official action;

4 (7) an individual who provides only oral or
5 written public testimony in connection with a legislative
6 committee or in a rulemaking proceeding and whose name and the
7 interest on behalf of which ~~[he]~~ the individual testifies have
8 been clearly and publicly identified; or

9 (8) a publisher, owner or employee of the
10 print media, radio or television, while gathering or
11 disseminating news or editorial comment to the general public
12 in the ordinary course of business;

13 ~~[F.]~~ G. "lobbyist's employer" means the person
14 whose interests are being represented and by whom a lobbyist is
15 directly or indirectly retained, compensated or employed;

16 ~~[G.]~~ H. "official action" means the action or
17 nonaction of a state official or state agency, board or
18 commission acting in a rulemaking proceeding;

19 ~~[H.]~~ I. "person" means an individual, partnership,
20 association, committee, federal, state or local governmental
21 entity or agency, however constituted, public or private
22 corporation or any other organization or group of persons who
23 are voluntarily acting in concert;

24 ~~[I.]~~ J. "political contribution" means a gift,
25 subscription, loan, advance or deposit of ~~[any]~~ money or other

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1 thing of value, including the estimated value of an in-kind
2 contribution, that is made or received for the purpose of
3 influencing a primary, general or statewide election, including
4 a constitutional or other question submitted to the voters, or
5 for the purpose of paying a debt incurred in any such election;

6 ~~[J.]~~ K. "prescribed form" means a form prepared and
7 prescribed by the secretary of state;

8 ~~[K.]~~ L. "rulemaking proceeding" means a formal
9 process conducted by a state agency, board or commission for
10 the purpose of adopting a rule, regulation, standard, policy or
11 other requirement of general applicability and does not include
12 adjudicatory proceedings; and

13 ~~[L.]~~ M. "state public officer" means a person
14 holding a statewide office provided for in the constitution of
15 New Mexico."

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

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

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

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1 an official action affecting the lobbyist's employer or in
2 support of or in opposition to a ballot issue or pending
3 legislation or official action shall file an expenditure report
4 with the secretary of state using an electronic reporting
5 system approved by the secretary of state in accordance with
6 Section 2-11-7 NMSA 1978. The expenditure report shall include
7 a sworn statement that sets forth:

8 (1) the cumulative total of all individual
9 expenditures of less than one hundred dollars (\$100) made or
10 incurred by the employer or lobbyist during the covered
11 reporting period, separated into the following categories:

12 (a) meals and beverages;

13 (b) other entertainment expenditures;

14 and

15 (c) other expenditures;

16 (2) each individual expenditure of one hundred
17 dollars (\$100) or more made or incurred by the employer or
18 lobbyist during the covered reporting period, indicating the
19 amount spent and a description of the expenditure. The list
20 shall be separated into the following categories:

21 (a) meals and beverages;

22 (b) other entertainment expenditures;

23 and

24 (c) other expenditures;

25 (3) each political contribution made, and

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1 whether the contribution is from the lobbyist's employer or the
2 lobbyist on the lobbyist's own behalf, identified by amount,
3 date and name of the candidate or ballot issue supported or
4 opposed; ~~and~~

5 (4) the names, addresses, employers and
6 occupations of other contributors and the amounts of their
7 separate political contributions if the lobbyist or lobbyist's
8 employer delivers directly or indirectly separate contributions
9 from those contributors to a candidate, a campaign committee or
10 anyone authorized by a candidate to receive funds on the
11 candidate's behalf; and

12 (5) the total compensation and expenses paid
13 or owed, if any, to a lobbyist by each lobbyist's employer for
14 that covered reporting period. If a lobbyist is a full-time
15 employee of the lobbyist's employer, or is paid by means of an
16 annual fee or retainer, the lobbyist shall estimate and report
17 the portion of the salary, fee or retainer salary that is
18 reasonably allocated for lobbying.

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

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

5 C. In identifying expenditures pursuant to the
6 provisions of Paragraphs (1) and (2) of Subsection A of this
7 section, in the case of special events, including parties,
8 dinners, athletic events, entertainment and other functions, to
9 which all members of the legislature, to which all members of
10 either house or any legislative committee or to which all
11 members of a board or commission are invited, expenses need not
12 be allocated to each individual who attended, but the date,
13 location, name of the body invited and total expenses incurred
14 shall be reported.

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

20 E. The reports required pursuant to the provisions
21 of the Lobbyist Regulation Act shall be filed:

22 (1) no later than January 15 for all
23 expenditures and political contributions made or incurred
24 during the preceding year and not previously reported;

25 (2) within forty-eight hours for each separate

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1 expenditure made or incurred during a legislative session that
2 was for five hundred dollars (\$500) or more;

3 (3) no later than the first Wednesday after
4 the first Monday in May for all expenditures and political
5 contributions made or incurred through the first Monday in May
6 of the current year and not previously reported; and

7 (4) no later than the first Wednesday after
8 the first Monday in October for all expenditures and political
9 contributions made or incurred through the first Monday in
10 October of the current year and not previously reported.

11 F. 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 unless they are directly paid for or reimbursed to a lobbyist
16 by a lobbyist's employer.

17 G. A lobbyist or lobbyist's employer shall obtain
18 and preserve all records, accounts, bills, receipts, books,
19 papers and documents necessary to substantiate the financial
20 statements required to be made under the Lobbyist Regulation
21 Act for a period of two years from the date of filing of the
22 report containing such items. When the lobbyist is required
23 under the terms of the lobbyist's employment to turn over any
24 such records to the lobbyist's employer, responsibility for the
25 preservation of them as required by this section and the filing

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1 of reports required by this section shall rest with the
2 employer. Such records shall be made available to the
3 secretary of state or attorney general upon written request.

4 H. A lobbyist's employer who also engages in
5 lobbying shall also comply with the provisions of this section.
6 A lobbyist and the lobbyist's employer shall coordinate their
7 reporting to ensure that the contributions and expenditures
8 that each have reported are not 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 and file a report with the secretary of state within
16 forty-eight hours after expending two thousand five hundred
17 dollars (\$2,500). [~~Such~~] The registration shall indicate the
18 name of the organization and the names, addresses and
19 occupations of any of its principals, organizers or officers
20 and shall include the name of any lobbyist or lobbyist's
21 employer who is a member of the organization. [~~Within fifteen~~
22 ~~days after a legislative session the organization shall report~~]
23 The report shall include the contributions, pledges to
24 contribute, expenditures and commitments to expend for the
25 advertising campaign for the purpose of lobbying, including the

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1 names, addresses, employers and occupations of the
2 contributors, and be submitted to the secretary of state on a
3 prescribed form."

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