



New Mexico
Office of the Secretary of State
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Lobbyist Regulation Act

Reporting Guidelines



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The information in this guide is intended for use as a reference for lobbyists, lobbyist employers, and other interested individuals. We encourage you to always refer to the Lobbyist Regulation Act, NMSA Sections 2-11-1 through 2-11-10 (the “Act”) as the ultimate legal authority.

The Secretary of State’s Office (“SOS”) will assist lobbyists and lobbyist employers with the requirements of the Act. If you are already a lobbyist or lobbyist employer, or are interested in being either one, we strongly recommend you review the Lobbyist Regulation Act as well as this guide before engaging in any potential lobbying activities.

You are welcome to contact the SOS’s Ethics Bureau for further information. Please visit our website, and you will find a link to the Act, forms, and other helpful information. Our contact information can be found below:

New Mexico State Capitol North
325 Don Gaspar, Suite 300
Santa Fe, NM 87501
(505) 827-3600 / (800) 477-3632
elections@sos.nm.gov

Please visit our website for additional lobbyist information at:
www.sos.nm.gov/legislation-and-lobbying/how-to-become-a-lobbyist/

Am I a Lobbyist?

lobbyist" means...

- any individual who is compensated for the specific purpose of lobbying;
- is designated by an interest group or organization to represent it on a substantial or regular basis for the purpose of lobbying; or
- in the course of his employment is engaged in lobbying on a substantial or regular basis.

"lobbying" means attempting to influence:

- *Legislative decision*
 - A decision related to any matter to be considered or being considered by the legislative branch of state government or any legislative committee or any legislative matter requiring action by the governor; or
- *Official action*
 - action or non-action of a state official or state agency, board or commission acting in a rulemaking proceeding.

You are **not** a lobbyist if you are:

- Appearing on your own behalf regarding legislation or an official action;
- Acting in your official capacity as a state, local government, or tribal official;
- A government employee appointed by an elected or appointed official appearing before a legislative committee or administrative agency to explain the effect of legislation upon your employing agency;
- Staff of an elected state official and are registered as such by the appointing official with the SOS;¹
- A legislator or legislative staff;
- A witness called to testify before a legislative committee or agency in connection with legislation;
- Providing testimony in a legislative or rulemaking proceeding; or
- Media or press reporting on the governmental goings on as a usual course of business.

¹ State officials must register for a CFIS account and file a lobbyist designation form each year to designate the staff members authorized to speak on behalf of the state agency.

What is a Lobbyist Employer?

"**lobbyist employer**" means...

- The person whose interests are being represented and by whom a lobbyist is directly or indirectly retained, compensated, or employed.

"**person**" means...

- An individual, partnership, association, committee, federal, state or local governmental entity or agency, however constituted, public or private corporation or any other organization or group of persons who are voluntarily acting in concert.

What is CFIS?

CFIS stands for the Campaign Finance Information System and is a secure, web-based reporting system used by candidates and campaigns, Political Action Committees, Lobbyists and Financial Disclosure Statement filers.

CFIS has both public and filer/administrative sides and is required to be used by all lobbyists in New Mexico to register, renew, and file expenditure reports. Both lobbyists and lobbyist employers are required to register in CFIS.

Lobbyists and lobbyist employers receive a user id and password for CFIS once they are registered. Training sessions on the system are available through webinars scheduled throughout the year and upon request. SOS encourages lobbyists to become familiar with the CFIS system and statutory requirements to avoid errors in filing reports. Fines are levied for late reports, as well as reports that contain false or incomplete information.

When does a Lobbyist have to register?

A lobbyist may register at any time during the year. However, NMSA 1978 §2-11-3 requires lobbyists to register in the month of January prior to the legislative session or prior to providing any services for an employer.

Lobbyists must register with the Secretary of State's Office prior to engaging in activities covered by the Act.

What is the registration process for a Lobbyist?

The Secretary of State has an online portal that lobbyists and lobbyist employers utilize to register and file reports: <https://login.cfis.sos.state.nm.us/#/index>. There are two forms required to register: the Lobbyist Registration Form filed by the lobbyist and the Lobbyist Authorization Form filed by the lobbyist employer. NMSA 1978 §2-11-3

- The lobbyist must complete the Lobbyist Registration Form which requires:
 - Lobbyist name, email address² (required for accessing the electronic report filing system – CFIS), permanent business address, business address while lobbying, and the name and address of each employer;
 - Whether the lobbyist will incur expenditures or make contributions on behalf of each employer; and
 - Whether the lobbyist is compensated by the employer(s);
- For each employer listed on the lobbyist registration form, the lobbyist employer must register for a CFIS account and provide authorization to the lobbyist to lobby on their behalf. The authorization form must include:
 - A full disclosure of the sources of funds used for lobbying; i.e. membership dues, corporate funds, etc.;
 - A description of the matters for which the lobbyist will provide services to the employer; and
 - The name and address of the records custodian if someone other than the lobbyist or the lobbyist employer, who will have custody of the accounts, bills, receipts, books, papers, and documents related to lobbying.

Along with the initial forms, a lobbyist must submit a fifty dollar (\$50.00) filing fee for each employer, i.e. \$50.00 for each Lobbyist Authorization Form a lobbyist files. No registration fee

² It is important that the email address provided upon registration is kept current, this email address is used by SOS staff to contact lobbyists regarding important deadlines and other notifications.

shall be required of individuals receiving only reimbursement of personal expenses and receiving no compensation or salary for lobbying, aka non-compensated lobbyists.

A lobbyist is not considered compliant with the Act, and therefore cannot engage in lobbying activities, until all the registration is received, all authorizations have been provided by the employer, and any applicable fees have been paid.

What happens next?

First Time Registration: If a registration and fee(s) are submitted online, SOS staff will approve the registration, and the lobbyist will receive an email with a user id and password to access the Campaign Finance and Information System (CFIS) account. If the registration and fee(s) are submitted via paper, SOS staff will enter the information into the lobbyist module in CFIS, approve the registration, and the lobbyist will receive an email with a username and password to access the CFIS account. If the lobbyist authorization form and/or registration fee is not paid in the same initial transaction, the account may be conditionally approved until the outstanding fee(s) are paid and/or employer authorization(s) are submitted.

Renewals: For online renewals, you will already have a CFIS username and password, and you will use those for system access. A 'forgot password' feature is available on the CFIS login screen in case you forget your login credentials. When you request a new password, you will receive an email with instructions and a link for password reset. If you renew via paper, you will return a lobbyist registration renewal form (sent via mail) or fill out a blank paper form (available on the SOS website). SOS staff will approve renewed accounts; if the lobbyist authorization form and/or registration fee is not paid in the same initial transaction, the account may be conditionally approved until the outstanding fee(s) are paid and/or employer authorization(s) are submitted.

What happens when I am retained by additional employers after the initial registration?

If you are retained by additional employers after registration, you must submit Supplemental Lobbyist Registration Forms, Lobbyist Authorization Forms and a \$50.00 fee for each new employer. This can be done online in your CFIS account by amending your electronic registration or by submitting a Supplemental Lobbyist Registration paper form. The new disclosures must be filed prior to lobbying on behalf of any new employer.

Do registrations expire?

Yes, registration is only good for the calendar year in which you register. In January of each subsequent year prior to the commencement of the legislative session, lobbyists must file a Lobbyist Renewal Form for each employer the lobbyist will continue to represent, as well as a \$50.00 renewal fee per employer. The SOS will mail renewal instructions to current lobbyists to facilitate renewal for the upcoming calendar year.

The Lobbyist Registration Form has a “Registration Year” area and a service commencement date area. If a lobbyist wishes to register prior to January of the following year, you will need to make sure the “Registration Year” and service commencement areas state the following year and not the current year.

Since registration is by calendar year, if you submit your registration before December 31, make sure you have indicated the proper year on the Lobbyist Registration Form. You’ll also need to be attentive to the “Date Services Begin” box on each lobbyist employer information section of the registration form.

Example A: A lobbyist is retained in September to lobby a legislative interim committee. The lobbyist must register with the Secretary of State prior to representing the employer before the interim committee. The lobbyist will list the current year on the form as the “Registration Year” and the current date when the lobbyist will begin providing services for the employer. If the lobbyist continues to represent the employer in the following year, the lobbyist will have to fill out a renewal form for the employer, because the current year registration expires on December 31.

Example B: A lobbyist wants to assure registration is completed timely and decides to file registration prior to the month of January. The lobbyist may file in December but must ensure they are completing a registration renewal for the following year rather than an amendment for the current year.

What happens when the Lobbyist information changes or when the Lobbyist is no longer employed by a registered employer?

Within one week of a change of information, the lobbyist must amend the electronic registration on file. An amended registration can include adding or removing employers or updated contact information. A paper termination form is available on the SOS website and can be submitted in

lieu of making an electronic change. Upon receipt of the paper form, SOS staff will update the lobbyist's electronic registration accordingly.

What are the responsibilities of a Lobbyist Employer?

Lobbyist employers are responsible for several components of the Act and are integral to assuring the campaign finance system is transparent.

Employer registration:

Employers are required to register for a CFIS account to authorize lobbyists to act on their behalf. Additionally, any time there is a change to who is lobbying on their behalf, they are required to amend the registration to either add or terminate lobbyists.

A lobbyist is not allowed to lobby until the SOS has received the proper authorization from the employer.

Employer expenditure reporting:

A lobbyist employer is not obligated to file expenditure reports unless they make a lobbying expenditure without involving the lobbyist. For example, suppose the employer has dinner with a candidate to whom the employer decides to make a contribution, and the employer writes a business check to candidate at the end of the dinner. The employer does not report the contribution to lobbyist. Since the lobbyist does not have knowledge of the contribution and therefore does not report it, the employer must file an expenditure report and report the contribution.

All lobbyists and lobbyist employers must coordinate to eliminate duplicate reporting.

Who is required to file lobbyist expenditure reports?

Lobbyists who receive compensation are required to file lobbyist expenditure reports by the statutory deadline. If the lobbyist does not have any expenditures or contributions to report during a particular reporting period, the compensated lobbyist is still required to file a "statement of no activity" by the report deadline.

Lobbyists who do not receive compensation (aka “non-compensated lobbyists”) are not generally required to file expenditure reports unless they incur expenditures (other than living expenses) or make political contributions.

Lobbyist employers are not generally required to file expenditure reports unless they incur expenditures (other than living expenses) or make political contributions that are otherwise not reported by their authorized lobbyist.

When do I file reports?

The Act requires lobbyists to file reports three times annually and within 48 hours of making an expenditure during the legislative session³. The deadlines to file the reports are:

- by 11:59 p.m. on the first Wednesday after the first Monday in **May** for all expenditures and political contributions made or incurred through the first Monday in May of the current year and not previously reported;
- 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; and
- 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.
- **Within 48 hours** for each separate expenditure made or incurred during a legislative session that was for \$500.00 or more.

The timeliness of filing reports is important. Reports filed after the deadlines will accrue a \$50.00 fine for each day the report is late. Reports are due by 11:59 p.m. on the day they are due.

What do I report?

NMSA 1978 §2-11-6 outlines what must be included in each lobbyist expenditure report as follows:

- Cumulative Expenditures - the cumulative total of all individual expenditures of less than one hundred dollars (\$100) made or incurred by the employer or lobbyist during the covered reporting period, separated into the following categories:
 - meals and beverages;
 - other entertainment expenditures; and

- other expenditures;
- Itemized Expenditures - each individual expenditure of one hundred dollars (\$100) 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:
 - meals and beverages;
 - other entertainment expenditures; and
 - other expenditures;
- Special Events – Includes parties, dinners, athletic events, entertainment and similar functions, to which all legislators or members of either house or any legislative committee are invited, the lobbyist shall identify it as a special event and report the date, location, name of the body invited and total expenses incurred;
- Political Contributions - 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
 - the names, addresses, employers and occupations of other contributors and the amounts of their separate political contributions if the lobbyist or lobbyist's employer delivers directly or indirectly separate contributions from those contributors to a candidate, a campaign committee or anyone authorized by a candidate to receive funds on the candidate's behalf.

A **political contribution** as defined in the Act is any provision of funds, promise of funds, or action which supports or opposes any candidate for the purpose of influencing any ballot item, whether candidate or question, that appears on either a primary or general election ballot.

An **Expenditure** as defined in the Act means a payment, transfer, or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value but does not include the following:

- A lobbyist's own personal living expenses;
- The expenses incidental to establishing and maintaining an office for lobbying activities; or
- Compensation paid to a Lobbyist by the Lobbyist employer.

How do I report cumulative expenditures?

A cumulation of all individual expenditures of less than one hundred dollars (\$100) made or incurred by the employer or lobbyist during the covered reporting period should be listed in the electronic report as follows:

- **Date of the Expenditure:**
 - Enter last date of the reporting period

- **Name of Payee:**
 - Various “insert category type” establishments
- **Beneficiary:**
 - Various beneficiaries
- **Expenditure Type:**
 - Choose from drop down list: “meals and beverages”, “entertainment expenditures”, “other expenditures”
- **Purpose:**
 - Cumulative total of expenditures less than \$100 per state statute 2-11-6(A)(1)
- **Amount:**
 - Cumulative amount of expenses for that expenditure type for the reporting period

What supporting documentation do I need to retain?

The lobbyist or the employer must obtain and preserve all records, accounts, bills, receipts, books, papers, and documents necessary to substantiate the filings in the campaign finance reporting system.

The records have a retention period of two years from the date of filing the report to which the records relate. The lobbyist or the employer of such records must provide the Secretary of State or Attorney General with these records upon request.

How is a Lobbyist Advertising Campaign reported?

Any organization or individual acting as 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 (NMSA 1978 §2-11-6(I)) for the purpose of lobbying shall register for a lobbyist advertising campaign account in CFIS.

- Registration is required within 48 hours of passing the threshold amount of \$2,500.00.
- Registration includes the organization name, its principals, organizers and officers with their addresses and occupations and whether any member of the organization is a lobbyist or a lobbyist employer.
- These organizations must report their expenditures, contributions, pledges to contribute and commitments to expend for the advertising campaign for the purpose of lobbying within 15 days of the conclusion of the legislative session.

Is there a list of registered Lobbyists?

Yes, the SOS maintains an index of all registered Lobbyists and their employers in the campaign finance reporting system. The Lobbyist Index may be found at <https://login.cfis.sos.state.nm.us/#/index>.

What are the limits or restrictions applicable to Lobbyists?

There are several provisions of the Act, as well as other statutes, that place limits on both lobbyists and their employers.

Contingency Employment: Lobbyists may not accept employment on a contingency basis whereby the lobbyist's compensation is based on the outcome of lobbyist contracted activities before the legislative branch, or on the approval or veto of any legislation by the governor. NMSA 1978 §2-11-8

The Prohibited Period: Lobbyists and lobbyist employers are prohibited from making political contributions to any statewide elected official, legislator, or candidates in those offices during the prohibited period. This includes lobbyists acting as an agent or intermediary for making or delivering contributions.

The prohibited period is defined in the Campaign Reporting Act (NMSA 1978 §1-19-34.1) and is based on the dates of regular and special legislative sessions summarized as follows:

- For legislators, attorney general, secretary of state, state treasurer, commissioner of public lands, state auditor or candidates for those offices – the prohibited period begins 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 adjournment of the regular or special session.
- For the governor and lieutenant governor or candidates for those offices – the prohibited period begins 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 the twentieth day following the adjournment of the regular or special session.

Contribution Limits: The Campaign Reporting Act provides for contribution limits which lobbyists must adhere to when making a political contribution. These limits are updated on January 1 after each general election. The latest contribution limits can be found on the SOS website.

Campaign Work: Lobbyists are prohibited from serving as a chairman, treasurer, or fundraising chair for a candidate for the legislature or statewide office. NMSA 1978 §2-11-8.1(A)

The Gift Act: While the SOS does not regulate or administer the Gift Act, we advise all lobbyists to abide by the Act. For further information on the Gift Act, please contact the Office of the Attorney General.

What type of action is being taken regarding harassment?

The SOS will provide resources to combat this issue and ensure a professional and productive work environment throughout the legislative process. We encourage you to take advantage of the useful tools being provided through our office and partners in this initiative. You may find helpful information and training resources on our website at www.sos.nm.gov.

We are now asking lobbyists to provide information to our office of their existing sexual harassment policies and training. Please complete the appropriate check box found on all registration related documents. Your responses will be made available to the public in a searchable format on our website.

What happens if I don't comply with the Act?

Compliance and penalties under the Act are detailed under NMSA 1978 §2-11-8.1(A). The secretary of state and the state ethics commission shall at all times seek to ensure voluntary compliance with the provisions of the Lobbyist Regulation Act.

Any person who fails to file or files a report after the deadline imposed by the Lobbyist Regulation Act shall be liable for and shall pay to the secretary of state fifty dollars (\$50.00) per day for each regular working day after the time required for the filing of the report until the complete report is filed, up to a maximum of five thousand dollars (\$5,000).

If voluntary compliance efforts fail, the secretary of state may refer a matter to the state ethics commission for a civil injunctive or other appropriate order or enforcement.

Complaints: Any person who believes that a provision of the Lobbyist Regulation Act has been violated may file a written complaint with the state ethics commission pursuant to the terms of

the State Ethics Commission Act [10-16G-1 to 10-16G-16 NMSA 1978]. If the commission has jurisdiction for the complaint, the state ethics commission shall refer the complaint to the secretary of state. Upon referral, the secretary of state shall attempt to achieve voluntary compliance with the Lobbyist Regulation Act. Within twenty days after receiving the complaint from the state ethics commission, the secretary of state shall return the complaint to the state ethics commission and certify to the state ethics commission whether voluntary compliance was achieved. If the secretary of state certifies voluntary compliance, the state ethics commission shall dismiss the complaint or that part of the complaint alleging a violation of the Lobbyist Regulation Act. If the secretary of state does not certify voluntary compliance, the state ethics commission shall proceed with the complaint pursuant to the terms of the State Ethics Commission Act.