

# NEW MEXICO

## LOBBYING DISCLOSURE

**These resources are current as of 12/20/13. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at [advocacy@afj.org](mailto:advocacy@afj.org).**

This guide summarizes key aspects of laws and regulations governing lobbying on the *state* level. It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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## DEFINITIONS

### Lobbying

- Lobbying – attempting to influence a decision related to:
  - any matter to be considered or being considered by the legislature or any legislative committee;
  - any legislative matter requiring action by the Governor or awaiting action by the Governor; or
  - the action or non-action of a state official or a state agency, board or commission acting in a rule-making proceeding.

[N.M. Stat. §§ 2-11-2\(D\), \(G\).](#)

### Lobbyist

- Lobbyist – any individual who is:
  - compensated specifically to lobby;
  - designated by an organization to lobby for it on a substantial or regular basis; or
  - whose employment involves lobbying on a substantial or regular basis.

[N.M. Stat. § 2-11-2\(E\).](#)

- Lobbyist does not include:
  - An individual who appears on his own behalf;
  - Elected or appointed officers of the state, political subdivisions or any Tribes or Pueblos, and certain government employees;
  - Any witness called by a legislative committee or administrative agency;
  - An individual who provides only oral or written public testimony in connection with a legislative committee or in a rulemaking proceeding, and whose name and the interest on behalf of which he testifies have been clearly and publicly identified; or
  - A publisher, owner or employee of the print media, radio or television.

[N.M. Stat. § 2-11-2\(E\).](#)

### Compensated

- Any money, per diem, salary, fee or portion thereof or the equivalent in services rendered or in-kind contributions received or to be received in return for lobbying services. [N.M. Stat. § 2-11-2\(A\).](#)

### Expenditure

- A payment or transfer, or a promise to pay or transfer any money or other thing of value. “Expenditure” does not include a lobbyist’s own personal living expenses and incidental expenses related to establishing and maintaining an office. [N.M. Stat. § 2-11-2\(B\).](#)

### Political Contribution

- A gift, loan, advance or deposit of money or anything of value, including in-kind contributions, made or received for the purpose of influencing an election or question submitted to the voters. [N.M. Stat. § 2-11-2\(I\)](#).

### Gifts

- “Gift” means any donation or transfer without commensurate consideration of money, property, service, loan, promise or any other thing of value, including food, lodging, transportation and tickets for entertainment or sporting events. It does not include:
  - the transfer of anything of value “motivated by a family relationship or close personal relationship other than the recipient’s position”; or
  - compensation for services rendered that are normal and reasonable, and are in no way increased or enhanced by the recipients position as a state officer.
- The definition of “gift” also specifies other exceptions. For more information, please review the specific language of the statute. [N.M. Stat. § 10-16B-2\(B\)](#).
- The state Attorney General also has interpreted “gift” as not including fact-finding trips for officials, as long as they fall within certain parameters.

## **REGISTRATION**

### Registration related to Lobbyist Employers

- In addition to filing a lobbyist registration form, lobbyist must also file information regarding his/her employers, including a [Lobbyist Authorization Form](#), authorizing the individual to lobby for the organization. In addition to this authorization, this form requires the lobbyist to disclose:
  - The source of funds used for lobbying;
  - A written statement from each of the lobbyist’s employers authorizing the individual to lobby on the employer’s behalf;
  - A brief description of the matters on which the individual will be lobbying and the services rendered; and
  - The name and address of the person (if other than the lobbyist or lobbyist employer) that will have custody of the accounting documents required to be retained under the Act.[N.M. Stat. § 2-11-3\(C\)](#).
- The lobbyist must disclose whether the organization will pay its lobbyist, but the lobbyist need not disclose the amount.

*Advertising campaigns* – If an organization spends more than \$2,500 in a calendar year on an advertising campaign for the purpose of lobbying, and the organization is not otherwise required to register and report under the Lobbyist Regulation Act, the organization must register with the Secretary of State within 48 hours of spending this amount by filing a [Lobbying Advertising Campaign Registration Form](#), followed by subsequent advertising campaign reports, discussed [below](#). The registration must include:

- the name of the organization;
- the names, addresses and occupations of its principals, organizers and officers; and
- the name of any lobbyist or lobbyist’s employer who is a member of the organization.

[N.M. Stat. § 2-11-6\(H\)](#).

#### Registration of Lobbyists

- Lobbyists must register with the Secretary of State by filing a [Lobbyist Registration Form](#), which requires disclosure of:
  - The lobbyist’s name, permanent business address and business address while lobbying; and
  - The name and address of each of the lobbyist’s employers.
- The registration must be filed in January, prior to each regular session of the Legislature, or before the lobbyist begins any reportable activities.

[N.M. Stat. § 2-11-3\(A\)](#).

- *Updating Registration* – Whenever any registration information changes, including if the lobbyist’s employment is terminated, the lobbyist must notify the Secretary of State within 30 days. Because a lobbyist’s registration terminates annually, if a lobbyist’s employment ends at the conclusion of the calendar year, there is no requirement to file a termination report. [N.M. Stat. § 2-11-3\(E\)](#).
- *Supplemental Registration* – Lobbyists who are subsequently employed or retained by additional entity(ies) following their initial registration must file a [Supplemental Registration Form](#) and [Lobbyist Authorization Form](#) for that employer, and pay an additional registration fee.
- *Renewing Registration* – If the lobbyist’s registration information remains substantially the same, the lobbyist must file only a simple renewal form in January and pay the \$25-per-employer filing fee. [N.M. Stat. § 2-11-3\(D\)](#). The renewal form is mailed to registered lobbyists. If the information has changed significantly, then the lobbyist must file the long-form registration.

- *Fee* – When registering, a lobbyist must pay an annual fee of \$25 for each of the lobbyist’s employers. [N.M. Stat. § 2-11-3\(A\)](#). For individuals who are not paid for lobbying, other than reimbursement of personal expenses, no registration fee is required. [N.M. Stat. § 2-11-3\(B\)](#). An expenditure statement is not required if the lobbyist does not anticipate incurring expenditures or contributions and does not in fact incur expenses or make contributions. [N.M. Stat. §§ 2-11-3\(A\), \(B\)](#).

## REPORTING

### Reporting by Organizations

- Organizations that are not otherwise required to file reports under the Lobbyist Regulation Act must file when they spend more than \$2,500 on an advertising campaign. Within 15 days after a legislative session, the organization that has funded such a campaign must report the names, addresses and occupations of those who contributed – or pledge to contribute – to fund the advertising campaign using the [Lobbying Advertising Campaign Reporting Form](#). [N.M. Stat. § 2-11-6\(H\)](#).

### Reporting by Lobbyists

- Each lobbyist must file an expenditure report if he or she makes an [expenditure](#) or a [political contribution](#) to support or oppose a ballot issue, pending legislation, or a candidate for state legislature, state public officer, board or commission member or state employee involved in an official action. [N.M. Stat § 2-11-6](#).
- Beginning May 2011, all lobbyists reports are to be entered through the Secretary of State’s [Campaign Finance Information System](#). The Secretary of State has published a [guide](#) on how to enter lobbying reports using this online system.
- The report must identify the total amounts spent on:
  - meals and beverages;
  - other entertainment;
  - gifts; and
  - other expenditures.
- Any individual expense above the IRS “threshold level” that must be reported separately to claim a business expense deduction, must be itemized, detailing the type of expenditure, amount, date, purpose, and name of the person who received the benefit. [N.M. Stat § 2-11-6\(C\)](#).
- For political contributions, the report must identify the amount, date and name of the candidate or ballot issue supported or opposed. If the lobbyist or the lobbyist’s employer delivers to a candidate an aggregate of

more than \$500 in contributions from other contributors, then the report must identify the names, addresses and occupations of the contributors and the amounts of their separate political contributions. Either direct or indirect bundling by the lobbyist or employer will trigger this requirement. [N.M. Stat § 2-11-6\(A\)](#).

- Reporting schedule:
  - *48-hour reports* – each separate expenditure of \$500 or more made or incurred during a legislative session must be reported within 48 hours;
  - *May 1 report* – must disclose all expenditures and political contributions made or incurred from January 1 through April 25 of the current year that have not been disclosed previously; and
  - *January 15 report* – must disclose all expenditures and political contributions made during the previous year that were not already disclosed.

[N.M. Stat § 2-11-6\(D\)](#).

## LOBBYING RESTRICTIONS

*Note that many states' rules on gifts, travel and other benefits provided to public officials are extremely complex. The laws outlined below are only summaries of some of the more commonly encountered issues; organizations and lobbyists are advised to consult with legal counsel for a complete analysis of their proposed activities before giving gifts or other benefits to officials.*

### Gift Restrictions

- State officers, employees and candidates for state office – including that person's family – may not knowingly accept a gift with a market value greater than \$250 from a restricted donor, and the restricted donor may not give such a gift. [N.M. Stat. § 10-16B-3\(A\)](#).
- A registered lobbyist, the lobbyist's employer or a government contractor may not donate gifts with an aggregate value over \$1,000 in a calendar year to any one state officer, employee, or candidate for state office. [N.M. Stat. § 10-16B-3\(B\)](#).
- A state officer or employee shall not solicit gifts for a charity from a business or corporation regulated by the state agency for which the state officer or employee works and shall not otherwise solicit donations for a charity in a manner that would suggest the donor is making the gift in order to influence the state officer or employee in the performance of an official duty. [N.M. Stat. § 10-16B-3\(C\)](#).

- “Fact-finding trips” may be permitted. Gift does not include travel, meals or related expenses accepted on behalf of and to be used by the state or a political subdivision of the state for official duties. [N.M. Stat. § 10-16B-2\(B\)\(7\)](#). The Attorney General of New Mexico has provided a letter dated June 5, 2007 concerning the application of the 2007 Gift Act and the common “Out-of-State Educational Site Visits” that are often considered by legislators. The Attorney General noted the need to “balance the importance of placing restrictions on inappropriate gifts against the importance of a legislature knowledgeable about issues they may act upon or that may directly affect their constituencies.” The Attorney General generally indicated that gifts covering “reasonable expenses” to attend an educational site visit are acceptable as long as the payment constitutes “reasonable expenses paid for a bonafide educational program that is directly related to official duties as a legislator.”

#### Campaign Contributions

- No lobbyist may serve as a campaign chair, treasurer or fund-raising chair for a candidate for the legislature or statewide office. [N.M. Stat. § 2-11-8.1\(A\)](#).
- Lobbyists and lobbyists’ employers may not contribute or act as an agent or intermediary for a political contribution for any candidate during a “prohibited period.”
  - The “prohibited period” begins January 1 prior to any regular legislative session, or on the date of any proclamation calling a special session. For all legislative and statewide officials and candidates other than the governor and gubernatorial candidates, it ends on the last day of the session. For the governor and gubernatorial candidates, the prohibited period ends on the 20<sup>th</sup> day following adjournment of the session. [N.M. Stat. § 2-11-8.1\(C\)](#); [2013 Prohibited Periods](#), Secretary of State, Ethics Commission.

#### Contingency Fees

- A lobbyist’s compensation may not be based in whole or in part on the outcome of the lobbying before the legislature or the approval or veto of any legislation by the Governor. [N.M. Stat. § 2-11-8](#).

#### Revolving Door

Restrictions on lobbying by former officials or employees are found at [N.M. Stat. §§ 8-8-19\(E\)](#), [10-16-8\(C\)](#) and [10-16-11](#). See also [NM S 432 \(2011\)](#), Chaptered. [Chapter No. 2011-138](#)

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## PENALTIES

- In addition to other penalties that may be assessed, any person who knowingly and willfully violates the Lobbyist Regulation Act shall be punished by a fine of up to \$5,000 and may have his lobbyist registration revoked or his lobbying activities enjoined for up to 3 years. [N.M. Stat. § 2-11-9](#).
- The Lobbyist Regulation Act also includes a provision for administrative penalties to be assessed through arbitration. See [N.M. Stat. § 2-11-8.2](#).

## CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

**Office of the Secretary of State**  
Ethics Administration Office  
New Mexico State Capitol  
325 Don Gaspar, Suite 300  
Santa Fe, NM 87501

Phone: 505.827.3600  
Fax: 505.827.8403  
Toll Free: 1.800.477.3632

[www.sos.state.nm.us](http://www.sos.state.nm.us)  
[www.sos.state.nm.us/Lobbyist\\_Information/](http://www.sos.state.nm.us/Lobbyist_Information/)

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## FOR FURTHER ASSISTANCE

**For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:**

Email: [advocacy@afj.org](mailto:advocacy@afj.org)  
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(675-6229)

**For assistance regarding state law in New Mexico, please contact:**

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