

new mexico

**ETHICS  
WATCH**

# LOBBYISTS AND THEIR OUTSIZED INFLUENCE IN NEW MEXICO

TALES OF FILM, FIREARMS, AND FUMES

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## Tales of Film, Firearms, and Fumes

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## Executive Summary

With this report, New Mexico Ethics Watch (NMEW) takes a fresh look at lobbying and the New Mexico Legislature. It has been seven years since the publication of a comprehensive report on lobbying in New Mexico.<sup>1</sup> While we have chosen to explore the influence of lobbyists in different areas than those explored in the 2013 report, we have found both similarities and differences in how lobbyists operated then versus how they operate now.

The similarities? Lobbyists are still doling out large amounts of cash to entertain and elect legislators, with some of the same lobbyists still at the top of the lists in terms of contributions, expenses, and numbers of clients. Perennially powerful lobbyists still know how to expertly play the inside game, catering to legislators, using their access to legislators, and leveraging the timing of meetings and last-minute amendments to their advantage.

The differences? Two new tactics from two deep-pocketed special interests: first, a deep involvement in grassroots, door-to-door electoral politics; second, coordination with local officials – beyond the more traditional provision of talking points and op-eds – to encourage them to refuse to enforce a signed law.

Has the amount of influence lobbyists possess changed since 2013? Now, PACs provide new, less transparent ways to get contributions to candidates . . . and lobbyists are giving to leadership PACs and PACs of individual legislators. Also, lobbyists who have been at the Roundhouse for many years are now bringing their children into their businesses and (potentially) passing their influence on to another generation.

In this report, we examine the connection between legislation and lobbying during the 2019 legislative session, in four areas:

- Cannabis
- Firearms
- Film
- Tobacco-related products

With cannabis, forces are and have been marshalling to bring legalization to New Mexico, with increased contributions to candidates and PACs. Strong anti- and pro- gun control special-interest groups rallied around background check legislation . . . with one group getting just what they paid for. Film interests maneuvered to exclude certain “partners” from rebate caps. And lobbyists for tobacco-related products secured tax breaks for their products in an omnibus tax bill during a House and Senate conference committee in the final hours of the session.

We have had to rely on data supplied by the Campaign Finance Information System (CFIS), housed on the website of the New Mexico Secretary of State (SOS).<sup>2</sup> In this report, we recommend that the SOS work to eliminate database errors in the CFIS that make it difficult to paint an accurate picture of lobbyists’ contributions and expenditures. But even without the errors, the information reported in the CFIS is lacking – not legally lacking, but lacking because our lobbyist disclosure requirements are lax. Some have reported on this.<sup>3</sup> The public knows that

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<sup>1</sup> “Lobbying in the Land of Enchantment: Special Interests and their Hired Guns,” New Mexico Common Cause, October 2013. This report provides an eye-opening look at the influence of lobbyists in the areas of oil and gas, agriculture, banking, and foreclosure, as well as the legal immunity given to the operators and suppliers of Spaceport America, a southern New Mexico facility operated by Virgin Galactic. [https://www.commoncause.org/new-mexico/wp-content/uploads/sites/19/2018/03/NM\\_100113\\_Lobbying\\_in\\_the\\_Land\\_of\\_Enchantment.pdf](https://www.commoncause.org/new-mexico/wp-content/uploads/sites/19/2018/03/NM_100113_Lobbying_in_the_Land_of_Enchantment.pdf)

<sup>2</sup> <https://www.cfis.state.nm.us/>

<sup>3</sup> See, for example, Marjorie Childress, “Lobbying influence game largely in the dark,” *New Mexico In Depth*, June 3, 2019, <http://nmindepth.com/2019/06/03/lobbying-influence-game-largely-in-the-dark/>

we can only discern so much from the reports lobbyists file. Every year a few legislators seek to strengthen lobbying laws, only to have their legislation stalled in committees, amended to be toothless, or amended to make disclosure and other requirements so onerous that legislators can't possibly vote for the proposals.

In this report, we not only discuss the barriers to getting information about lobbying activities – we also correlate contributions and expenditures to votes. We can only go so far, though, in linking lobbyist spending to favorable voting and actions. But, if our *laws* went farther – requiring lobbyists to disclose which pieces of legislation they are working on when making their contributions and expenditures, requiring the reporting of lobbyist compensation, paying our legislators a fair salary – not only would we gain more transparency and shed light on the influence exerted by lobbyists, we would have more trust in the Legislature as an institution.

## I. Introduction

Over 20 years ago, the irreverent Texas columnist Molly Ivins coined a phrase to explain the behavior of elected officials in the Lone Star State. “You got to dance with them what brung you,” she declared, with her focus squarely on the campaign cash, the whiskey, the perks, the sumptuous meals provided to Texas legislators courtesy of big special interests and their purveyors, cigar-smoking lobbyists.

But is her folksy saying always accurate?

The question of whether professional lobbyists – and the clients they represent – have an outsized influence on government decisions at all levels is perennial. Some say lobbyists are necessary to the political process, providing information, expertise, resources, even food, that the system does not provide to its legislators, at least not in New Mexico.

Others say that some lobbyists in New Mexico are even more powerful than legislators – and their activities need to be controlled. Over the years, legislation has evolved to require lobbyist reporting and to control gifts and the timing of campaign contributions. Progress has been slow. Bills to identify lobbyists and require basic reporting of salaries have faced tough sledding: introduced with great hope, only to be stuck in committee, amended to be toothless, and sent to the bench to wait until next year.<sup>4</sup>

New Mexico is one of the few states in the country that has a citizen legislature, where lawmakers serve without a regular salary and staff. With short sessions and full agendas, legislators often seek the help of the real professionals – lobbyists hired to influence the outcome of issues handled by the body, which meets 30 days per year in even-numbered years and 60 days per year in odd-numbered years.

This report looks at the influence of lobbyists in New Mexico and whether their contributions, connections, and expertise give them an edge in passing favorable legislation and edging out the influence of ordinary constituents.

To answer that question, we attempted to examine lobbyists' contributions, expenditures, and outcomes during the 2019 legislative session, using several different case studies in the areas of cannabis, firearms, film, and tobacco. Our inquiry has been hampered by the limitations of current lobbyist disclosure laws, the failings of the Campaign Finance Information System

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<sup>4</sup> See Section “IV. Recommendations,” *infra*.

(CFIS) database on the Secretary of State’s website, and the intricate information maze that has resulted from court decisions and recent changes in campaign finance law.

Contributions are not easy to track. Once simply a matter of a contributor and a recipient candidate, there are now intermediaries – PACs giving contributions to other PACs. Some of these are leadership PACs, while others are political-party PACs or single-issue PACs whose headquarters are in New York or Virginia. PACs then make contributions to individual candidate campaign committees, and now it seems as though almost every legislator has a PAC as well as his or her own campaign committee. Often lobbyists are the distributors of campaign contributions coming from special interests directly to or from various PACs. And lobbyists are often contributors themselves. Confusion and darkness often prevail.

## II. Lobbyists and Their Toolboxes

Under the NM Lobbyist Regulation Act, the term “lobbyist” is defined as “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.”<sup>5</sup> For this report, we are studying those who fall under the first definition, “any individual who is compensated for the specific purpose of lobbying.” This excludes citizens who visit the legislature to talk to their legislators on issues they care about, as well as technical experts employed by the state or its political subdivisions. And although lobbyists also lobby the governor and various agencies, boards, and commissions, here we are looking specifically at the New Mexico Legislature.

### A. Who Are They and Whom Do They Represent?

In 2019, there were 734 lobbyists registered with the Secretary of State’s office, representing 907 clients. This is an increase from 2017, the most recent “long” legislative session when there were 673 lobbyists representing 788 clients.

#### Registered Lobbyists, Clients, and Spending, 2013–2019

	#Registered Lobbyists	#Lobbyists’ Clients	Total Lobbyist Expenditures	Total Lobbyist Contributions
2013	662	832	\$487,926.70	\$763,191.94
2014	1104	1112	\$456,705.17	\$1,108,352.82
2015	634	848	\$513,699.07	\$806,155.34
2016	592	745	\$454,954.30	\$1,770,214.44
2017	673	788	\$635,332.34	\$1,006,382.17
2018	610	783	\$457,893.83	\$4,822,012.99
2019	734	907	\$794,632.82	\$2,292,699.70 <sup>6</sup>

<sup>5</sup> Section 2-11-2(E) NMSA 1978.

<sup>6</sup> There is a discrepancy between the total expenditures and contributions for 2019, depending where one looks within the CFIS. Under the “Search by Lobbyists” tab, if one enters “2019” as the Registration Year seeking “All”

Table 1: Registered Lobbyists, Clients, and Spending, 2013–2019

Many of these lobbyists were administration officials or directors of non-profits. Others were not technically required to register but did so anyway. Still, that’s about six and a half lobbyists for each of the 112 legislators. Total lobbyist contributions and expenditures pack a wallop for the economy of Santa Fe as well as for the legislators themselves. Total lobbyist campaign contributions reported to date for 2019 were \$2,292,699.70, and total expenditures for food, entertainment, and other items they purchased for legislators was \$794,632.82, according to the Secretary of State’s website.<sup>7</sup>

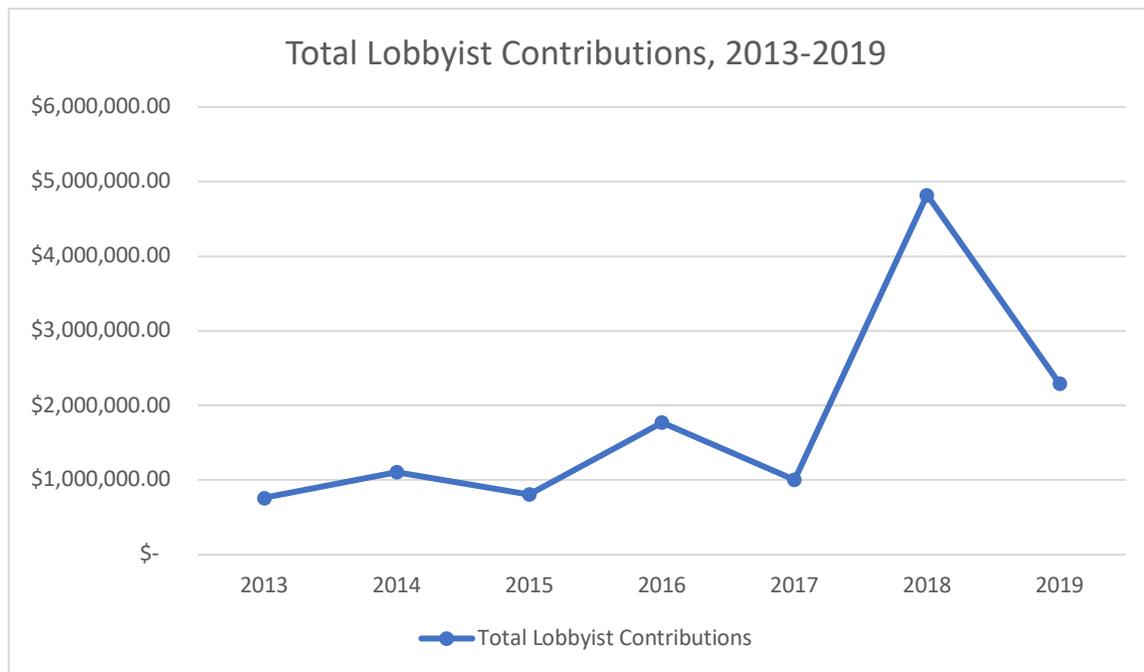


Chart 1: Total Lobbyist Contributions, 2013-2019

Report Types, one gets the numbers displayed.

<https://www.cfis.state.nm.us/media/ReportLobbyists.aspx?el=2019&fn=&ln=&empName=&repType=%>

If one enters “All” as the Registration Year, however, a table displays \$765,148.60 as Total Contributions and \$512,346.34 as Total Expenditures for 2019. <https://www.cfis.state.nm.us/media/ReportLobbyistFilingPeriods.aspx>.

NMEW has chosen the larger figure as it fits the pattern of previous years and appears directly above the names of all of the lobbyists registered in 2019. The figures reported were listed as of 1/12/20. The contribution amount appears to have increased as of 1/13/20, perhaps due to the filing of amended reports.

<sup>7</sup> Campaign Finance Information System (CFIS), <https://www.cfis.state.nm.us/>

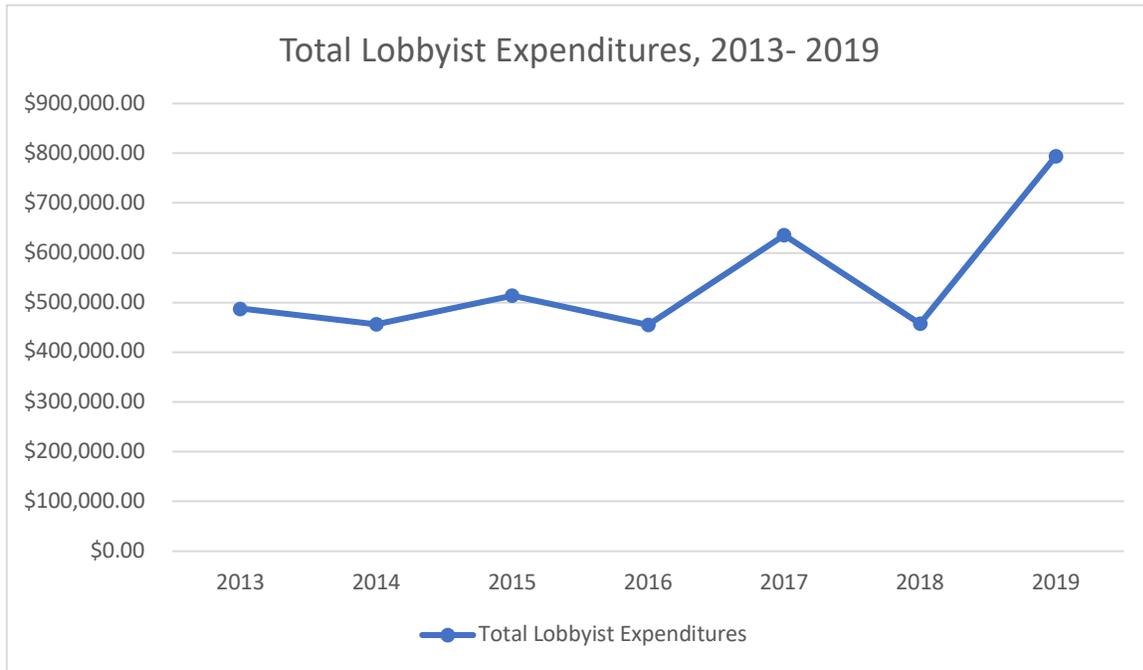


Chart 2: Total Lobbyist Expenditures, 2013-2019

## B. Super-Lobbyists

### Top Lobbyists by Clients, 2019

2019 Lobbyists	# of Clients
Scott Scanland	31
Anthony (T.J.) Trujillo	29
Richard Romero	25
Sue Griffith	25
James Bullington	23
Drew Setter	23
Joseph Thompson	23
Arthur Hull	21
Brent Moore	20
Luke Otero	20
Lawrence Horan	20
Rikki-Lee Chavez	20
Natasha Ning	20

Cristoforo Balzano	19
Daniel Najjar	19
Linda Siegle	19
Nancy M. King	19
Randi Valverde	18
Mark Duran	17
Vanessa Alarid	17
Minda McGonagle	16
John Thompson	15
Carrie Robin Brunder	14
Jason Weeks	13
Marco Gonzales	13
Julianna Koob	12
Morris Chavez	12

Alfred Park	11
Charlie Marquez	11
Dan Weaks	11
Michael Adam Chavez	11

Kimberly Legant	11
John William Anderson	10
Julio Salazar	10
Mickey Barnett	10

Table 2: 2019 Top Lobbyists by Number of Clients

But not all lobbyists are created equal. While some have only one client, the professionals have many more. According to the Secretary of State’s website, in 2019, 35 lobbyists have over nine clients each, with some super-lobbyists contracting with as many as 31. These super-lobbyists are sometimes among the biggest spenders, but not always. Sometimes lobbyists with one big client spend the most during the session on one big dinner or special event.

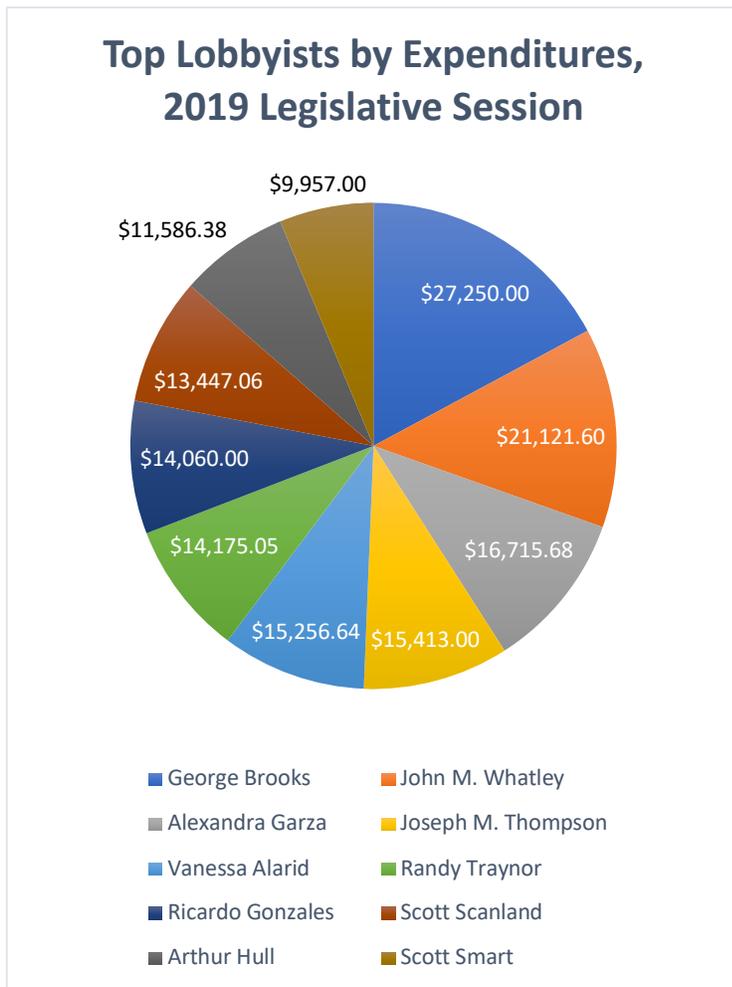


Chart 3: Top Lobbyists by Expenditures, 2019 Legislative Session

### **C. The Revolving Door and Blood Ties**

Like almost everything else in New Mexico, the Legislature is a family affair. Many lobbyists are former legislators or are related to current or former lawmakers. The Secretary of State's Office lists at least 20 former representatives and 14 former senators registered as lobbyists, many of them former leaders.<sup>8</sup>

Former senators include Kent Cravens, Roman Maes, Richard Romero, Tom Rutherford, Clinton Harden, Walter Bradley, Diane Snyder, Mickey Barnett, Tim Jennings, Tito Chavez, Eric Griego, Lynda Lovejoy, Cynthia Nava, and John Ryan.

Former representatives include Jim Smith, Rick Miera, Raymond Sanchez, Michael Olguin, Joe Thompson, Brian Moore, Dan Silva, Dick Minzner, Al Park, Andy Nunez, Debbie Rodella, Tomas Garcia, Bealquin "Bill" Gomez, Keith Gardner, Stephanie Maez, Justine Fox-Young, Tom Swisstack, John Underwood, Maurice Hobson, and John Thompson.

Some former legislators become lobbyists during the session after they leave elected office; this was the case for Kent Cravens, Debbie Rodella, Clinton Harden, Jim Smith, and Al Park. This quick turnabout is called the "revolving door." In many jurisdictions there is a required cooling-off period before legislators can lobby their former colleagues – but not in New Mexico. Several bills to slow the revolving door have been introduced, but all have failed.<sup>9</sup>

If the fact that some of the top lobbyists in Santa Fe are former legislators seems a little incestuous, this is only part of the story. A number of lobbyists are related to current legislators, by marriage and by blood. Lobbyist Vanessa Alarid is the wife of Rep. Moe Maestas; lobbyist Scott Scanland is the husband of Rep. Doreen Gallegos; lobbyist Linda Siegle is the partner of Sen. Liz Stefanics; lobbyist Leland Gould is the husband of Sen. Constance Gould; lobbyist Allison Cooper is the daughter of Sen. President Pro Tem Mary Kay Papen; and lobbyist Emily Strickler is the daughter of Rep. James Strickler.

There are many more legislative staffers who are related to current legislators, or who are former administration officials or retired state employees.

Adding to the family atmosphere are lobbyist families. Often a lobbyist father or husband will bring sons, daughters, or wives into the business. Tom Horan, John Lee Thompson, and Tom Rutherford (all former legislators) have now largely stepped back, with sons Jeremy Rutherford, Larry Horan, and the twin sons of John Lee Thompson (John and Jason) taking over. The longtime utility lobbyist Sam Ray introduced his daughter Matejka Santillanes to the business. Lobbyist couples include Randy Traynor and Debbie Maestas, J.D. Bullington and Gabriella Luna-Bullington, and (until recently) power lobbyists Dan Weaks and Marla Shoats. Adela and Mark Duran are siblings in the business, as are Randy and Mark Saavedra, and Ty and T.J. Trujillo. Most often, siblings have different clients, but they help each other out.

### **D. The Expense Account and Checkbook**

Personal relationships and family ties between legislators and lobbyists are an important part of NM's legislative culture. They are backed up by a formidable arsenal of campaign contributions,

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<sup>8</sup> Lobbyist registrations from the SOS office are out of date. Current lobbyists are listed, along with some deceased lobbyists.

<sup>9</sup> See Section "IV. Recommendations," *infra*.

meals at fancy restaurants, and special events in Santa Fe and out-of-state cities where legislators gather for national conferences.

The contributions and expenditures of lobbyists and their clients can be traced (with some difficulty) through the Secretary of State’s website.

### **Top Lobbyist Contributors, 2018 Election Year (To Candidates and PACs)**

<b>Lobbyist</b>	<b>Contributions (to Both Candidates and Political Committees)</b>
Alexis Street	\$2,036,500.00
Stephen Perry	\$687,250.00
Emily Walton	\$396,000.00
Jack Milarch	\$111,750.00
Marco Gonzales	\$111,130.25
James Bullington	\$94,100.00
Randy Traynor	\$71,300.00
Marla (Marlene) Shoats	\$63,850.00
Daniel Najjar	\$52,651.00
Scott Scanland	\$48,582.47

*Table 3: Lobbyist Contributions to Candidates and PACs for 2018 Election Year*

### **Top Lobbyist Contributors, 2018 Election Year (To Candidates Only)**

<b>Lobbyist</b>	<b>Contributions to Candidates (ONLY)</b>
Jack Milarch	\$111,750.00
Marco Gonzales	\$111,130.25
Stephen Perry	\$107,500.00
James Bullington	\$94,100.00
Tomas Garcia	\$65,000.00
Arthur Hull	\$58,950.00
Randy Traynor	\$58,850.00
Luke Otero	\$47,500.00
Daniel Najjar	\$46,501.00
Scott Scanland	\$46,082.47

*Table 4: Lobbyist Contributions to Candidates Only for the 2018 Election Year*

## Lobbyist Employer Contributions, 2018 Election Year (To Candidates and PACs)

Client	Contributions
New Mexico Trial Lawyers Association	\$740,064.00
Chevron	\$539,900.00
New Mexico Defense Fund	\$539,534.00
New Mexico Realtors Association	\$510,825.00
Devon Energy	\$377,750.00
PNM Resources	\$360,100.00
Occidental Petroleum	\$295,450.00
New Mexico Health Care Association / New Mexico Center for Assisted Living	\$261,125.00
New Mexico Automotive Dealers Association	\$254,668.00
Altria	\$254,400.00

Table 5: Lobbyist Employer Contributions, 2018 Election Year (To Candidates and PACs)

One thing that cannot be tracked is how much the lobbyists are paid by their clients. Some are on retainer for an entire year, charged with monitoring interim committees and tracking various issues. Others have smaller contracts for one session only. As of 2015, 26 states require reporting of the financial payments they receive in return for their services.<sup>10</sup> Unlike these states, New Mexico does not require lobbyists to reveal how much they are paid to influence public bodies or the details of their contracts. And currently, they are not required to disclose exactly which bills they are working on. Bills introduced by Sen. Jeff Steinborn to require this disclosure have gotten a hostile reception in the Legislature.<sup>11</sup>

According to the Secretary of State's website, in 2019, as reported to date, lobbyists in NM have spent \$794,632.82 feeding, entertaining and giving gifts to legislators and candidates for state office, including during the 2019 session. Total lobbyist campaign contributions for 2019, reported to date, are \$2,292,699.70.<sup>12</sup>

### E. Lobbying by Non-Lobbyists

The primary focus of this report is on professional lobbyists who are compensated for the specific purpose of lobbying. These professional lobbyists are required to register under the Lobbyist Regulation Act and to file timely reports with the Secretary of State. However, there

<sup>10</sup> See Jonah Hahn, "How transparent is your state's lobbying disclosure?" Sunlight Foundation, Aug. 12, 2015, <https://sunlightfoundation.com/2015/08/12/how-transparent-is-your-states-lobbying-disclosure/>. See also <http://www.ncsl.org/research/ethics/50-state-chart-lobbyist-report-requirements.aspx> (2018) and <https://www.followthemoney.org/assets/Uploads/50-StateLobbyingAssessment.Nov2011.pdf> (2011).

<sup>11</sup> See Section "IV. Recommendations," *infra*.

<sup>12</sup> See footnote #6, *supra*.

are other individuals who, in their respective ways, advocate for particular issues or legislative proposals.<sup>13</sup>

Advocacy by non-lobbyists has considerable influence on legislative matters. This section briefly addresses such advocacy by governors, cabinet secretaries, legislators, and the leaders of non-profit organizations. We also discuss the role of professional, non-partisan staff who exert substantial influence through the technical information they produce to give context to legislative issues.

## **Governor**

A governor serves as the chief executive officer for the state of New Mexico. In addition to constitutional duties as head of the administration, the governor frames policy, proposes a budget, sets the agenda for the legislative session, and rejects or accepts legislative bills and budgets. As outlined in the Constitution of New Mexico, the governor can craft bills drawn pursuant to special messages during 30-day legislative sessions (Article IV, Section 5); convene special sessions of the Legislature (Article IV, Section 6); and exercise a veto or partial veto of legislation that reaches the governor's desk (Article IV, Section 22).

That authority, and other powers, are leveraged by governors to frame policy debates and in some instances, to reject legislative proposals.<sup>14</sup> In particular, a governor's authority to exercise line-item vetoes in the General Appropriation Act (aka HB 2), capital outlay bills, and other spending proposals is a powerful tool – one that even the President of the United States does not possess.

As state managers, governors are responsible for implementing state laws and overseeing the operation of the state executive branch. As state leaders, governors advance and pursue new and revised policies and programs using a variety of tools, among them executive orders, executive budgets, legislative proposals, and vetoes. Governors carry out their management and leadership responsibilities and objectives with the support and assistance of department and agency heads, many of whom they appoint.<sup>15</sup>

A governor lays out an agenda in the state of the state address at the beginning of each session in January. During legislative sessions, governors often play a major role in the passage of legislation, sometimes working with lobbyists, sponsors, and opponents to craft a compromise.

At other times, the governor may not want a bill to reach his or her desk and will work with committee chairs, leadership, or the minority party to kill it. Every governor's staff includes legislative liaisons, who are charged with working with legislators to ensure a favorable outcome for the governor.

These are key aides. Gov. Bruce King, in the early 1980s, used young Brian Sanderoff as his legislative liaison. Gov. Gary Johnson used a troop of young "wonder boys," including Joe Thompson and Kelly Ward. Gov. Bill Richardson deployed Brian Condit to the Senate and Eric

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<sup>13</sup> The Lobbyist Regulation Act, Section 2-11-2(D) NMSA 1978, defines "lobbying" as "attempting to influence: (1) 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 awaiting action by the governor; or (2) an official action."

<sup>14</sup> Charles Aull, "Fact Check: Did Gary Johnson issue 750 vetoes as governor of New Mexico?" [Ballotpedia](#), January 27, 2016

<sup>15</sup> "Governors' Powers and Authority," National Governor's Association, <https://www.nga.org/consulting/powers-and-authority/>

Witt to the House. Michelle Lujan Grisham, the current governor, has used Victor Reyes and Ane Romero. These staffers can often be found in the basement, counting votes or talking on the phone with reluctant legislators. And when their efforts fail, the governor may call up legislators to the fourth floor directly, with more tools than most lobbyists – capital outlay, threats of a veto for the legislator’s major bills, or special favors for the legislator’s constituents.

Everyone understands that the chief executive is also the decider-in-chief.

## **Cabinet Secretaries**

Cabinet-level department secretaries serve under the authority of the governor.<sup>16</sup> The governor appoints the secretaries to manage departments that are statutorily assigned to the executive branch of government.

During legislative sessions and interim periods, cabinet secretaries are frequently called to testify before legislative committees. Cabinet secretaries can also be called into service to monitor legislators with whom they have relationships and ensure that they are in their seats when the roll is called. Secretaries may also meet privately with legislators to further discuss a governor’s view of budget recommendations and legislative proposals.

As noted in a brief authored by the National Governors Association, a governor’s cabinet serves the chief executive by developing policies and programs to address problems that confront state government.<sup>17</sup> As top-level managers of department budgets and policy development, secretaries communicate a governor’s priorities and directives.<sup>18</sup>

An effective cabinet secretary can serve as a powerful advocate for a governor by communicating the chief executive’s vision to citizens and the legislature.

## **Legislators**

Legislative leaders wield authority that may be used to influence rank-and-file members. That authority takes a variety of forms, including appointment of committee chairs, committee assignments, office placements, and other perks. And recently, there has been a proliferation of PACs formed by legislators that serve as money pipelines to like-minded incumbents and candidates for public office.<sup>19</sup> The money fuels the ever-increasing costs of mounting a campaign and may serve to consolidate power by legislative leaders.<sup>20</sup>

It should also be noted that some legislators have subject-matter expertise that may lead other members to look to these experts for guidance. The New Mexico Legislature includes ranchers, farmers, educators, engineers, small business owners, energy executives, and 18 attorneys.<sup>21</sup>

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<sup>16</sup> “Structure of New Mexico Government,” NM Legislative Council Service, May 2010,

[https://www.nmlegis.gov/Publications/new\\_mexico\\_state\\_government/state\\_government\\_organizational\\_chart.pdf](https://www.nmlegis.gov/Publications/new_mexico_state_government/state_government_organizational_chart.pdf)

<sup>17</sup> “Governors’ Relationship with Departments and Agencies,” National Governors Association, October 2018,

<https://www.nga.org/wp-content/uploads/2018/10/Governors-Relationships-with-Departments-Agencies.pdf>

<sup>18</sup> Ibid.

<sup>19</sup> Sandra Fish, “In the battle for the Legislature, lawmakers are important givers,” *New Mexico in Depth*, September 8, 2016, <http://nmindepth.com/2016/09/08/in-the-battle-for-the-legislature-lawmakers-are-important-givers/>

<sup>20</sup> Ibid.

<sup>21</sup> [www.nmlegis.gov](http://www.nmlegis.gov), as of January 2020.

## Non-Profit Advocacy Groups

501(c)(3) entities focus primarily on providing and sharing information on issues related to the organization's mission. They can advocate and educate legislators about a specific issue.<sup>22</sup> If they are a 501(c)(4) entity, they can lobby and participate in electoral politics. Many non-profits, such as Common Cause New Mexico, are both 501(c)(3) and 501(c)(4) entities.

Non-profit advocacy groups possess expertise on issues that consistently present themselves to policymakers, including good governance, education, literacy, cultural awareness, public health, spirituality, the arts, and many others. Thanks to the combination of strong community relationships and intimate local knowledge, these organizations often understand better than anyone else their communities' needs and the best way to meet them.<sup>23</sup>

Advocacy by non-profits may include civic engagement, direct lobbying, grassroots lobbying, and the publication of research that presents all sides of an issue.<sup>24</sup>

## F. Professional, Nonpartisan Staff

The New Mexico Legislature is served by several staff agencies. Employees in these agencies work year-round with legislators on complex topics and provide policymakers with information and administrative support.

### Legislative Council Service

The Legislative Council Service (LCS), created by statute in 1951, is the drafting and legal research agency for the New Mexico Legislature.<sup>25</sup> The director and the LCS staff serve all members of the Legislature and also draft legislation for the executive and judicial branches of government and other state entities.<sup>26</sup> Twin tenets governing the LCS are that all requests for services be kept confidential and be provided impartially.<sup>27</sup>

### Legislative Finance Committee

The Legislative Finance Committee (LFC) was established as a fiscal and management arm of the New Mexico Legislature in 1957.<sup>28</sup> The LFC makes budgetary recommendations to the Legislature for funding state government, higher education, and public schools. The LFC also prepares legislation that addresses financial and management issues in state government.<sup>29</sup>

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<sup>22</sup> "In general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is attempting to influence legislation (commonly known as *lobbying*). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status."

See <https://www.irs.gov/charities-non-profits/lobbying>.

<sup>23</sup> Naomi Camper, "A Strong Nonprofit Sector Is Key to Thriving Communities," *The Aspen Institute*, March 7, 2016, <https://www.aspeninstitute.org/blog-posts/a-strong-nonprofit-sector-is-key-to-thriving-communities/>

<sup>24</sup> "New Mexico Nonprofit Principles & Practices Guide," Center for Nonprofit Excellence, 2018, <https://www.centerfornonprofitexcellence.org/guide>

<sup>25</sup> See "Legislative Staff Agencies" at [https://www.nmlegis.gov/Staff\\_Directory?Entity=LCS](https://www.nmlegis.gov/Staff_Directory?Entity=LCS)

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> See "LFC Overview" at <https://www.nmlegis.gov/Entity/LFC/Overview>

<sup>29</sup> *Ibid.*

## **Legislative Education Study Committee**

Created in 1965 as a permanent, bipartisan, bicameral interim committee of the New Mexico Legislature, the Legislative Education Study Committee (LESC) conducts a continuing study of all education in New Mexico.<sup>30</sup> The LESL develops funding recommendations for public education, recommends changes to laws relating to education, and publishes an annual report of its findings and recommendations.<sup>31</sup>

## **Role of Legislative Staff**

Legislative staff stand in a special relationship to legislators. As staff members, they are entrusted with various tasks that give them an important role in the process by which decisions for the common good are made by the Legislature.<sup>32</sup> Staff provide administrative support, perform research, analyze proposed departmental budgets, and draft legislation. This professional, non-partisan work supplies legislators and other entities in state government with the technical information and context they need for policy discussions.

When professional staff are not available to legislators – during the interim or during busy legislative sessions – legislators tend to rely on partisan staff or on lobbyists, who are always handy to give advice.

## **III. Lobbying Influence in Action**

Here are four recent examples of how lobbyists on both sides of an issue have played a role in some of the newest emerging issues in New Mexico – marijuana, film, the regulation of vaping and cigars, and the licensing of firearms.

### **A. Marijuana: An Emerging Industry with Everything at Stake in the NM Legislature<sup>33</sup>**

The marijuana issue is not new to the New Mexico Legislature. It dates back to 1978, when 26-year-old Vietnam veteran Lynn Pierson prowled the halls of the Roundhouse in search of relief from his intractable cancer pain. Although it was too late for Pierson, New Mexico became the 19th state to legalize medical marijuana in 2007. Since then, the program has expanded steadily, and in 2019 over 77,000 residents had cards for a long list of permissible conditions. A growing industry now supplies dispensaries in almost every city and town in the state. And now there is a new frontier.

New Mexico appears poised to join Colorado and the ten other states that have legalized marijuana for adult use. In 2019, a recreational marijuana proposal passed a chamber of the

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<sup>30</sup> See “LESC Overview” <https://www.nmlegis.gov/Entity/LESC/Overview>

<sup>31</sup> Ibid.

<sup>32</sup> “Model Code of Conduct for Legislative Staff,” National Conference of State Legislatures, July 30, 2019. <https://www.ncsl.org/research/about-state-legislatures/model-code-of-conduct-for-legislative-staff.aspx>

<sup>33</sup> In this report, we may use the terms “cannabis” and “marijuana” interchangeably. The growing consensus is to use the term “cannabis,” in recognition of its health and well-being benefits, but in New Mexico the Legislature has referred to it as “marijuana” for decades.

Legislature for the first time in New Mexico history. The House floor substitute for the House Judiciary substitute for House Bill 356 – a measure to legalize, regulate, and tax marijuana – passed the House of Representatives and was eventually stymied by the Senate Finance Committee.<sup>34</sup> However, the Speaker of the House expressed his view that the bill would pass if it were to reach the full Senate.<sup>35</sup>

There was additional evidence that marijuana advocates have the wind at their back.

Senate Bill 406 (Gerald Ortiz y Pino, sponsor) made sweeping changes to the Lynn and Erin Compassionate Use Act and other laws regarding the use of medical marijuana. The revisions included allowing the administration of medical cannabis in schools; extending the issuance of medical marijuana registry identification cards from one to three years; expanding the list of qualifying medical conditions; directing the Department of Health to adopt regulations to provide for program reciprocity with other states, territories, tribes, and pueblos; and providing that probationers or parolees not be penalized for lawfully using medical marijuana. These expansions of the medical marijuana program enjoyed bipartisan support.<sup>36</sup>

Senate Bill 323 reduced the penalty for possession of up to one-half ounce of marijuana from a petty misdemeanor to a non-criminal citation of \$50.00. The decriminalization bill also received support from both sides of the aisle.<sup>37</sup>

Furthermore, in June 2019, Governor Michelle Lujan Grisham announced the creation of a task force called the “Cannabis Legalization Working Group.” That group released its recommendations for proposed legislation on October 16,<sup>38</sup> and the governor has stated that she intends to add the issue of legalizing marijuana to the agenda for the 30-day legislative session in 2020.<sup>39</sup>

Supporters of legal recreational marijuana assert that the state has an opportunity to create up to 11,000 jobs; generate millions of dollars in new state and local tax revenues; and correct decades of social injustice done to people of color and people living in poverty, who bore the brunt of the U.S. government’s war on drugs.<sup>40</sup> Opponents dismiss the revenue projections and say that the social costs of marijuana legalization – elevated youth use rates, impaired driving, and increased automobile crash rates – are too high. The debate often references the experience of our neighboring state of Colorado, which legalized marijuana for adult use in November 2012.<sup>41</sup>

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<sup>34</sup> Dan Boyd, “Prospects dim for NM marijuana legalization bill,” *Albuquerque Journal*, March 14, 2019, <https://www.abqjournal.com/1292049/prospects-dim-for-nm-marijuana-legalization-bill.html>

<sup>35</sup> *Ibid.*

<sup>36</sup> See <https://www.nmlegis.gov/Legislation/Legislation?Chamber=S&LegType=B&LegNo=406&year=19> for actions on SB 406: passed the Senate 33–2; passed the House 50–15; and signed by the governor

<sup>37</sup> See <https://www.nmlegis.gov/Legislation/Legislation?Chamber=S&LegType=B&LegNo=323&year=19> for actions on SB 323: passed the Senate 30–8; passed the House 44–20; and signed by the governor

<sup>38</sup> Dan Boyd, “Legal cannabis push gets road map,” *Albuquerque Journal*, October 16, 2019, <https://www.abqjournal.com/1379300/task-force-releases-nm-cannabis-legalization-plan.html>

<sup>39</sup> Brandon Evans, “Will recreational pot be legal in New Mexico in 2020?” KOAT, Dec. 20, 2019, <https://www.koat.com/article/will-recreational-pot-be-legal-in-new-mexico-in-2020/30301730#>

<sup>40</sup> Mike Gallagher, “Legal pot or not? A New Mexico debate,” *Albuquerque Journal*, January 6, 2019, <https://www.abqjournal.com/1264970/legal-pot-or-not.html>

<sup>41</sup> “From Prohibition to Progress: A Status Report on Marijuana Legalization,” Drug Policy Alliance, January 2018, [http://www.drugpolicy.org/sites/default/files/dpa\\_marijuana\\_legalization\\_report\\_feb14\\_2018\\_0.pdf](http://www.drugpolicy.org/sites/default/files/dpa_marijuana_legalization_report_feb14_2018_0.pdf)

Duke Rodriguez is the owner of Ultra Health, the top-grossing medical marijuana company in New Mexico.<sup>42</sup> He estimates that revenue generated by the emerging marijuana industry will top \$600 million when recreational use by adults is legalized in New Mexico.<sup>43</sup> He also has predicted that marijuana industry contributions to New Mexico politicians could begin to rival those from traditional campaign funding sources.<sup>44</sup>

### A New Source of Campaign Cash

Rodriguez’s prediction is already coming true. Since 2017, there has been a swelling green tide of cannabis cash flowing into New Mexico elections. It goes to legislative PACs, into the governor’s race in 2019, and directly into the campaigns of legislators. The largest industry contributor is Rodriguez’s company, Ultra Health. And the tide has come even before legalization has passed the Legislature.

In Colorado, campaign contributions and lobbying by marijuana producers have intensified since the state legalized recreational use of the drug.<sup>45</sup>

The publication *Colorado Politics* reported that the marijuana industry contributed \$223,000 to candidates for statewide offices as well as to political parties.<sup>46</sup> Additionally, the author of the *Colorado Politics* article noted that the marijuana industry in Colorado spent between \$600,000 and \$700,000 on lobbyists during the 2018 legislative session.<sup>47</sup>

### Lobbyists for the Marijuana Industry and Its Supporters

In New Mexico, legalization advocates and the industry have deployed some of the most influential lobbyists in Santa Fe. Most of them have a roster of clients that brings them in regular contact with legislators, and they are frequent contributors to campaigns on behalf of their cannabis clients as well as others with a stake in legislative outcomes.

The table below identifies lobbyists for Ultra Health and other medical marijuana companies and entities that support legalization of recreational marijuana in New Mexico.

Employer	Lobbyist Name	Registration Year
Drug Policy Alliance	Randy Traynor	2018
Drug Policy Alliance	Brian Miller	2019
Drug Policy Alliance	Debbie Maestas-Traynor	2019
Drug Policy Alliance	Randy Traynor	2019
Drug Policy Alliance NM	Richard Minzner	2017

<sup>42</sup> Juliana Vadnais, “New Mexico Medical Marijuana Companies: Ranked by gross receipts,” *Albuquerque Business First*, July 6, 2018, <https://www.bizjournals.com/albuquerque/subscriber-only/2018/07/06/medical-marijuana-companies.html>

<sup>43</sup> Steve Terrell, “Cannabis grows as source of N.M. political campaign funds,” *Taos News*, August 25, 2018, <https://www.taosnews.com/stories/cannabis-grows-as-source-of-nm-political-campaign-funds.51256>

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

Drug Policy Alliance NM	David Schmidt	2018
Drug Policy Alliance NM	David Jaramillo	2019
Natural Rx	Drew Setter	2019
Natural Rx	Natasha Ning	2019
New Mexico Cannabis Alliance	Joel Davis	2017
New Mexico Cannabis Alliance	Kristine Jacobus	2017
New Mexico Cannabis Alliance	Dan Weaks	2019
PurLife	Morris Chavez	2019
The Verdes Foundation	Minda McGonagle	2018
Ultra Health	Anthony (T.J.) Trujillo	2017
Ultra Health	Antonio P. Trujillo	2017
Ultra Health	James Rivera	2017
Ultra Health	Robert Romero	2017
Ultra Health	Jack Michelson	2019
Ultra Health	John Chavez	2019

Table 6: Lobbyists for Cannabis Interests, 2017–2019

Ultra Health, also known as “Top Organics,” has had six lobbyists from 2017–2019. Its lobbyists are outnumbered only by those of the Drug Policy Alliance, an advocacy group that has been working to legalize both medical and recreational marijuana since the 1990s. Interestingly, there is no push and pull, lobbying-wise, between pro- and anti-legalization forces. To date, no opposing entities have funded efforts to thwart *recreational* legalization. However, medical marijuana stakeholders have their own concerns. This lack of formal opposition does not appear to have tamped down lobbying efforts and financial support for legalization.

### Campaign Contributions by the Marijuana Industry

Since 2017, the cannabis industry; its PACs, businesses, lobbyists; and the non-profit Drug Policy Alliance have made \$194,300 in campaign contributions to New Mexico candidates and their PACs. They have spent \$62,743.70 on lobbying the Legislature. That brings the total reported spending attributed to marijuana proponents to \$254,825.70 from 2017 through 2019. The recipients of their largess have included the governor, legislators, and especially PACs controlled by bill sponsors, key supporters, and the legislative leadership.

Candidate	Contributions from Cannabis Interests	
Michelle Lujan Grisham	\$	116,750.00
Nate Gentry	\$	12,750.00
Jeff Apodaca	\$	10,200.00
Javier Martinez	\$	10,000.00
Phil Harvey	\$	5,500.00
Hector Balderas	\$	5,000.00
Antonio Maestas	\$	2,000.00

Bill McCamley	\$ 2,000.00	Derrick J. Lente	\$ 600.00
Brian Egolf	\$ 2,000.00	Craig Brandt	\$ 500.00
Cisco McSorley	\$ 2,000.00	Damon Ely	\$ 500.00
Daniel A. Ivey-Soto	\$ 2,000.00	George Munoz	\$ 500.00
Debbie Armstrong	\$ 2,000.00	H. Martin Gilbert	\$ 500.00
Moe Maestas	\$ 2,000.00	John Sapien	\$ 500.00
Sheryl Williams Stapleton	\$ 2,000.00	Joy Garratt	\$ 500.00
James Griffin	\$ 1,500.00	Maggie Toulouse Oliver	\$ 500.00
Peter Wirth	\$ 1,500.00	Mary Kay Papen	\$ 500.00
Jerry Ortiz y Pino	\$ 1,250.00	Pete Campos	\$ 500.00
Cliff Pirtle	\$ 1,000.00	Sander Rue	\$ 500.00
Debbie A. Rodella	\$ 1,000.00	Bill O’Neill	\$ 250.00
Gail Chasey	\$ 1,000.00	Galina Kofchock	\$ 250.00
Howie Morales	\$ 1,000.00	Garrett VeneKlasen	\$ 250.00
J. Britt Snyder	\$ 1,000.00	Karen Bash	\$ 250.00
John Arthur Smith	\$ 1,000.00	Natalie Figueroa	\$ 250.00
Mark Moores	\$ 1,000.00	Joanne Ferrary	\$ 250.00
Richard Martinez	\$ 1,000.00	<b>Grand Total</b>	<b>\$ 194,300.00</b>

Table 7: Cannabis Interest Contributions to NM Candidates, 2017–2019

### Contributions to Legislators

By far the biggest recipient of money attributable to cannabis interests from 2017 to October of 2019 was not a legislator but rather Governor Lujan Grisham, who received \$116,750.

At the top of the list of legislators who received money attributable to cannabis interests during the same time period is the former House Majority Leader Nate Gentry, a Republican, who received a total of \$12,750 from cannabis interests, all of it reported in 2017.<sup>48</sup>

Other legislative recipients of large amounts of money attributed to cannabis interests reported from 2017 to October 2019 include Rep. Javier Martinez, who received \$10,000 in contributions, all in 2019, post-legislative session;<sup>49</sup> Rep. Bill McCamley, who received \$1,000 in 2017 and \$1,000 in 2018; and former Sen. Cisco McSorley (2016), House Majority Leader Rep. Brian Egolf (2019), Sen. Daniel Ivey-Soto (2016), and Rep. Antonio Maestas (2019), each of whom received \$2,000.

Rep. Maestas was a sponsor of HB 356, discussed below. Other sponsors also received contributions: Rep. Daymon Ely (\$500 in 2019), Rep. Deborah Armstrong (\$2,000 in 2019), and

<sup>48</sup> In 2017, as the House Republican floor leader, Gentry sponsored HB 530, legalizing research on industrial hemp, as well as HB 527, expanding the definition of debilitating conditions that would permit the issuance of a medical marijuana card.

<sup>49</sup> Rep. Martinez was the 2019 sponsor of HB 356, discussed below.

Jerry Ortiz y Pino (\$250 in 2017 and \$1,000 in 2019). Only sponsor Rep. Angelica Rubio did not receive contributions attributable to cannabis interests.

Spending in New Mexico by Cannabis Interests, 2017-2019

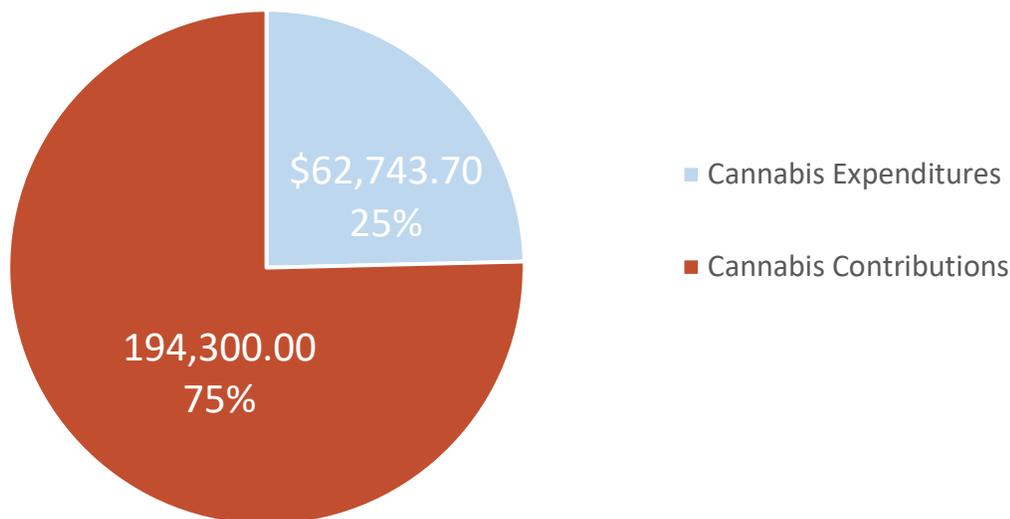


Chart 4: Spending in New Mexico by Cannabis Interests, 2017–2019

These contributions to legislators have increased over time, with legislators receiving a total of \$13,750 contributions reported in 2017 and \$32,500 attributed to cannabis interests in 2019. The bulk of the contributions came in the wake of the 2019 session, where a legalization bill passed the House and came up one committee vote short in the Senate. The contributions also came in advance of the 2020 session, which will include a marijuana debate and, of course, came in handy to recipients who are preparing for the 2020 elections, which include all members of the Legislature.

### Contributions to Leadership

Notable among the cannabis contributions made directly to legislators are the large donations to House Speaker Brian Egolf (\$2,000), House Majority Leader Sheryl Williams Stapleton (\$2,000), Senate President Pro Tem Mary Kay Papen (\$500), and Senate Majority Leader Peter Wirth (\$1,500).

### Contributions to PACs

Whether they are made to leaders or to rank-and-file members, the individual contributions tell only a small part of the story. Several PACs operated by House members collected hefty contributions from the pro-legalization forces. From 2017–2019, Empower New Mexico, a PAC organized by HB 356 sponsor Javier Martinez, received \$13,000; MOE PAC, operated by Antonio “Moe” Maestas, a co-sponsor, collected \$14,500. A Strong New Mexico, operated by

Rep. Debbie Armstrong, collected \$1,500. The contributions were attributed to cannabis interest groups.<sup>50</sup>

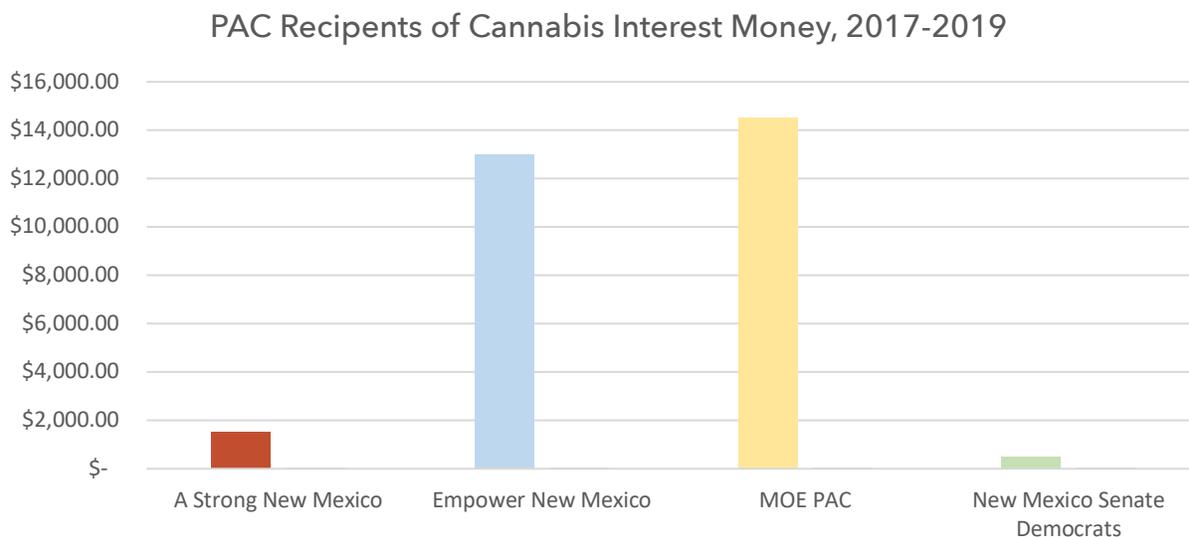


Chart 5: PAC Recipients of Cannabis Interest Money, 2017–2019

Whether they are made to leaders or to rank-and-file legislators, direct contributions by the proponents of legalization and their lobbyists are only part of the story. Lobbyists like T.J. Trujillo and Randy Traynor, for example, have multiple clients. Sometimes lobbyists report that they are making contributions on behalf of those clients, and sometime they don’t. Often they make contributions on behalf of their own company, and it is impossible to tell whether legislators are aware that the campaign cash comes from a certain client unless the lobbyists tell them. The darkness is even further increased because in New Mexico, lobbyists are not required to disclose which bills they are working for or against.

### House Bill 356 (2019)

House Bill 356 (2019) was sponsored by Reps. Javier Martinez, Antonio “Moe” Maestas, Daymon Ely, Deborah Armstrong, Angelica Rubio, and Jerry Ortiz y Pino. As noted in an executive summary for the bill prepared by the New Mexico Drug Policy Alliance, the bill was based on the experiences of other states and on five years of writing and rewriting proposed marijuana legalization bills that preceded HB 356. The House Judiciary Committee substitute for HB 356 proposed the creation of a regulated system of approved licensees and regulations for the use, production, and sale of cannabis and cannabis products in New Mexico. Additionally, the bill included provisions that addressed tax structures, revenue distributions, local government controls, protections for the medical cannabis industry, and social justice reforms. Those reforms included the expungement of prior marijuana possession convictions and a set-aside of licenses for women and people of color.

<sup>50</sup> MOE PAC received \$13K in 2018 and \$1.5K in 2019; Empower New Mexico received \$11.5K in 2018 and \$1.5K in 2019; and A Strong New Mexico received 1.5K in 2018.

While HB 356 was making its way to the House floor, three Republican senators (Cliff Pirtle, Mark Moores, and Craig Brandt) were advocating for a different approach with their Senate Bill 577.<sup>51</sup> While their proposal to legalize marijuana for adults also addressed tax structures, revenue distributions, and licensing regulations, significantly, it called for the sale of marijuana products in state-controlled retail stores. Some capitol “wall-leaners” wondered if the purpose of authorizing state-run stores was to reduce the influence of the largest cannabis producers in New Mexico.

SB 577 received a “Do Pass without recommendation” from the Senate Public Affairs Committee, and the bill was substituted and received a “Do Pass” from the Senate Judiciary Committee. Then it, too, was blocked by the Senate Finance Committee, which did not schedule a hearing for the bill.

At that point, the Republican senators approached the House leadership and Representative Javier Martinez, seeking to find common ground between the Senate and House bills. During the ensuing negotiations, the Senate trio promised the delivery of House Republican support in exchange for adoption of the “state-run” business model and exclusion of the social reform elements included in HB 356. The resulting compromise did adopt the “state-run” model, but retained the social reform elements. Consequently, a last-minute House floor substitute for the House Judiciary Committee substitute for HB 356 was distributed to the House members as they readied for a vote. Despite a spirited lobbying effort by the “state-run” proponents, all 24 Republican House members voted no on the floor substitute, and they were joined by ten Democratic House members. Still, the House floor substitute passed by the slimmest of margins, 36–34.

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<sup>51</sup> In 2019 these legislators received contributions from attributable cannabis interests: Sens. Pirtle (\$1000 from Natural RX), Brandt (\$250 directly from Natural RX and \$250 from Drew Setter) and Moores (\$500 directly from Natural RX and \$500 from Drew Setter).

## Cannabis Interest Contributions & Floor Votes

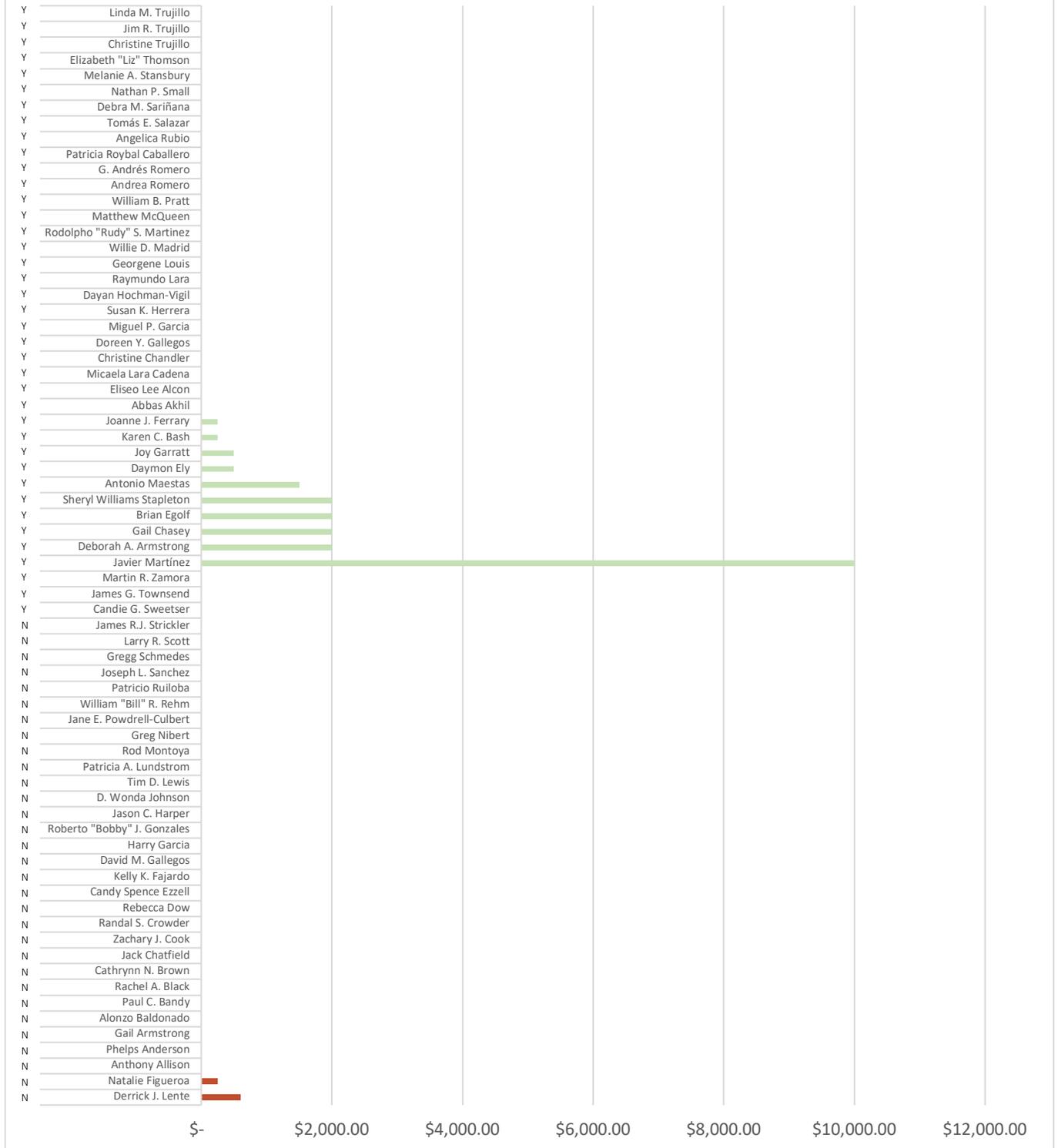


Chart 6: Cannabis Interests' Contributions to NM House Members, 2017–2019, and Floor Votes on House Floor Substitute for HB 356. ("Y" is a "Yes" vote FOR the bill; "N" is a "No" vote AGAINST the bill.)

The average contribution from legalization advocates and the industry to representatives who voted “Yes” on HB 356 was \$569.44. The average contribution to representatives who voted “No” was \$25. Two of those who voted “No,” Natalie Figueroa and Derek Lente, received contributions from legalization advocates. The largest single recipient was the bill’s sponsor, Javier Martinez, who received \$10,000.

In the Senate, HB 356 passed out of the Senate Public Affairs Committee (SPAC) on a 5-to-2 vote. Two of those who voted “Yes,” Sen. Ortiz y Pino (D) and Sen. Craig Brandt (R), received contributions from the pro-legalization forces, \$1,250 (\$250 in 2017 and \$1,000 in September 2019) and \$500 (in September 2019), respectively. No other members of the committee received contributions directly attributed to cannabis.

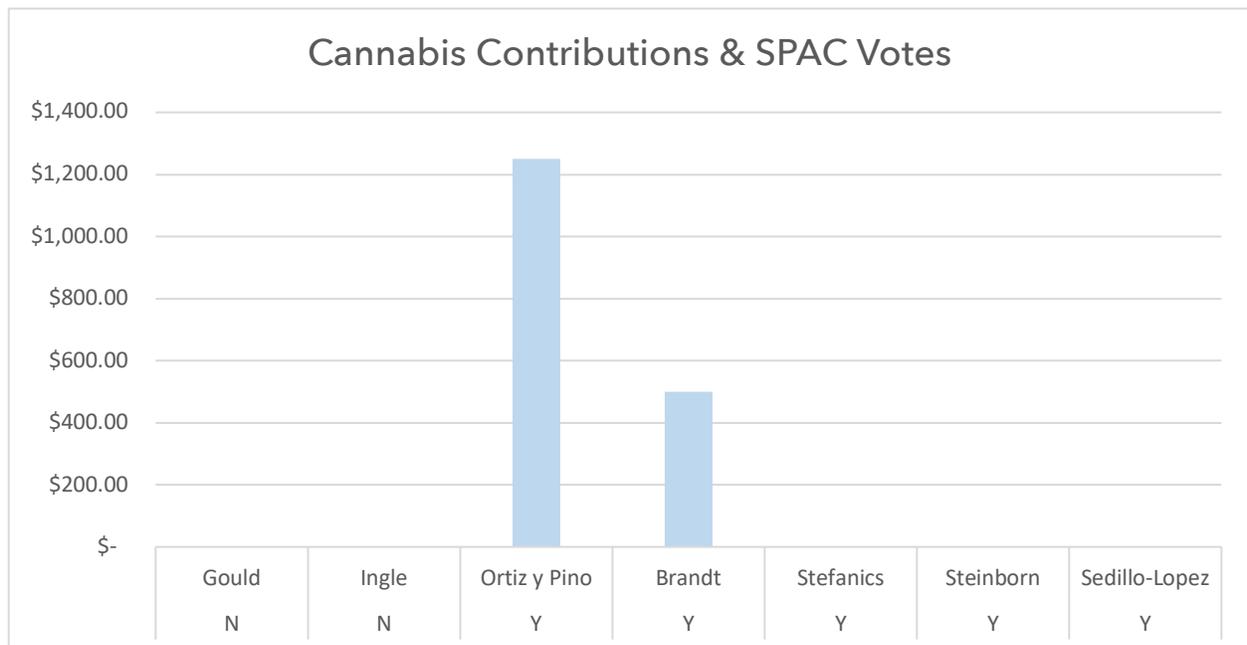


Chart 7: Cannabis Interests' Contribution to NM Senate Public Affairs Committee Members, 2017–2019, and Committee Votes on House Floor Substitute for HB 356

The House Floor Substitute for HB 356 was then referred to the Senate Finance Committee but did not receive a hearing. Several sources quote the chairman, Senator Smith, as saying that the votes “were not there.” Consequently, the vote never reached the Senate floor and failed upon adjournment.

### Since the 2019 Session...

The flow of campaign cash to legislators and the governor has accelerated, for a total of \$60,450 in contributions. Governor Lujan Grisham, who has indicated that the issue will be on the 2020 legislative agenda, has received \$116,750 in contributions from the industry.<sup>52</sup> Twenty-seven legislators have also received contributions, not to mention their PACs. Natural RX, just one

<sup>52</sup> These contributions went directly to Michelle Lujan Grisham, not to her packs.

member of the growing industry, has contributed \$36,750 to individual legislators, the governor, and affiliated PACs.

In addition, editorials and news articles in prominent newspapers have called into question Speaker Brian Egolf’s legal services for Ultra Health, which has sued the state on several occasions to allow non-residents to obtain medical marijuana cards and to allow more plants to be grown. Egolf has maintained that in a citizen legislature – which provides no salary to members – individuals keep their day jobs, whether that be law, real estate, or ranching. Former Republican House Majority Leader Nate Gentry quickly sprang to his defense, renewing a debate on whether legislators should be paid in order to avoid conflict of interest.<sup>53</sup>

## **B. Firearms: Local Actors with National Support**

There are few issues more controversial than gun control, particularly in the wake of school shootings and massacres with automatic weapons of scores of people in public places. With the U.S. Congress frozen, attention has shifted to the states. New Mexico, in the rural West, has long been seen as the bastion of hunters and gun owners from Billy the Kid to the Catron County Commission, which in 1994 required every head of household to maintain a firearm and the ammunition needed to fire it. There is no licensing or registration requirement in the state, except for concealed carry permits, which were created in legislation passed in 2001 and loosened to allow more people to carry guns in the following decade.

Gun control advocates like the Giffords Law Center identified New Mexico as one of ten states with the worst gun death rates, and gave the state an “F” in 2018 and 2017.<sup>54</sup> This ranking is not new. As far back as 1997, New Mexico ranked sixth in the nation in gun fatalities, with the youth suicide rate particularly high (2018).<sup>55</sup>

### **The Primary Players**

The National Rifle Association (NRA) has long dominated state legislatures through both spending to influence campaigns and lobbying to keep the forces of gun control at bay in the states while the gun control advocates have been scattered. But times are changing. The NRA has dramatically decreased its spending, and a new player, Everytown for Gun Safety, has stepped into the funding gap in a big way. In 2019, after repeated attempts to pass a universal background check bill, the New Mexico Legislature did it. The new Democratic governor, Michelle Lujan Grisham, signed the bill in March, and it is now in effect – much to the dismay of a conservative sheriffs’ association that the NRA has enlisted to resist the law it was unable to block in the Legislature.

Here’s the backdrop. The NRA is usually a huge player in state elections. It has contributed \$17.9 million to state races, party committees, and ballot initiatives since 2000, according to Follow the Money.org. It also spent \$55 million independently of candidates for PACs and advertisements during 2015 and 2016. The high-water mark for the NRA was 2016,

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<sup>53</sup> See Section “IV. Recommendations,” *infra*.

<sup>54</sup> <https://lawcenter.giffords.org/scorecard/#NM>

<sup>55</sup> [New Mexico Advocates for Children and Families Fact Sheet 2001, based on DOH Child Fatality Review.](#)

when it contributed \$8.3 million, most of it for a ballot initiative in Nevada. But since then, the NRA's spending has dramatically decreased, both nationally and in New Mexico.<sup>56</sup>

Meanwhile, the gun control forces were getting organized, with the help of former New York City Mayor and billionaire Michael Bloomberg.

In 2014, the landscape shifted dramatically, when Bloomberg's Mayors Against Illegal Guns combined with a grassroots organization, Moms Demand Action for Gun Sense in America, to create the nonprofit Everytown for Gun Safety, which pledged \$50 million toward the effort to fight gun violence.<sup>57</sup> Until then, pro-gun lawmakers could call upon the NRA to fund their campaigns. But with Everytown, gun control lawmakers had a strong source of campaign funding to turn to, as well.

Job One was to pass universal background checks for firearm purchases.

## Campaign Contributions and Other Tools

The Openness Project, a New Mexico website, has tracked contributions made to New Mexican candidates and PACs since 2013. It reports activity by Everytown in NM beginning in 2016, when the group contributed to 23 candidates and PACs.<sup>58</sup> The 2016 amounts contributed ranged from a \$100,000 contribution to Patriot Majority New Mexico<sup>59</sup> to a \$500 contribution to NM Together, totaling \$216,500 in contributions made in the state that year.<sup>60</sup> Then—NM House Minority Leader Rep. Nate Gentry was the lone Republican to receive an Everytown donation in 2016, taking in \$5,000 from the advocacy group arm on June 1, 2016.<sup>61</sup>

Everytown for Gun Safety made no contributions to New Mexico PACs or candidates in 2017, a non-election year. In 2018, however, Everytown contributed a total of \$396,000 to New Mexico candidates and PACs.<sup>62</sup> The largest donation of \$250,000 was made to Stronger New Mexico, a PAC that also received \$280,000 from the Democratic Governors Association that year. Also in 2018, Everytown made 42 donations to legislative candidates, the smallest of which was \$1,000 to Democratic House candidate Alexis Jimenez. Of the 26 Democratic NM House

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<sup>56</sup> Edwin Bender, "NRA: Dramatic Drop in 2018 State-Level Contributions," FollowTheMoney.org, Aug. 7, 2019, <https://www.followthemoney.org/research/blog/nra-dramatic-drop-in-2018-state-level-contributions>

<sup>57</sup> See <https://everytown.org/press/new-gun-violence-prevention-group-everytown-for-gun-safety-unites-mayors-moms-and-millions-of-americans-on-new-paths-to-victory-state-capitols-corporate-responsibility-voter-activation/>

<sup>58</sup> The contributions are made by both Everytown for Gun Safety, a PAC, and the Everytown for Gun Safety Action Fund, an advocacy group. See chart at

[https://opennessproject.com/search/?term=everytown+for+gun+safety&table\\_name=candidate&table\\_name=pac&table\\_name=treasurer&table\\_name=contribution&table\\_name=expenditure&table\\_name=lobbyist&table\\_name=organization&table\\_name=lobbyisttransaction](https://opennessproject.com/search/?term=everytown+for+gun+safety&table_name=candidate&table_name=pac&table_name=treasurer&table_name=contribution&table_name=expenditure&table_name=lobbyist&table_name=organization&table_name=lobbyisttransaction)

<sup>59</sup> "Patriot Majority USA is a nonprofit 501(c)(4) organization. It is the dark money wing of Patriot Majority, a network of pro-Democrat outside spending groups that has existed since 2006 and had historically disclosed its donors. With the creation of Patriot Majority USA, the group has now jumped into the world of dark money. Patriot Majority USA has existed in its current form since 2008." [https://www.sourcewatch.org/index.php/Patriot\\_Majority](https://www.sourcewatch.org/index.php/Patriot_Majority)

<sup>60</sup> [https://opennessproject.com/search/?term=everytown+for+gun+safety&table\\_name=candidate&table\\_name=pac&table\\_name=treasurer&table\\_name=contribution&table\\_name=expenditure&table\\_name=lobbyist&table\\_name=organization&table\\_name=lobbyisttransaction](https://opennessproject.com/search/?term=everytown+for+gun+safety&table_name=candidate&table_name=pac&table_name=treasurer&table_name=contribution&table_name=expenditure&table_name=lobbyist&table_name=organization&table_name=lobbyisttransaction)

<sup>61</sup> As reported by the AP, in 2016 Rep. Gentry helped pass a bill that requires courts to send any mental health records that may be relevant to the National Instant Criminal Background Check System. AP, "Gun safety group outspends lobbyists in New Mexico," *Albuquerque Journal*, Jan. 23, 2017, <https://www.abqjournal.com/933522/gun-safety-group-outspends-lobbyists-in-new-mexico.html>

<sup>62</sup> *Ibid.*

candidates to whom Everytown contributed in the lead-up to the 2018 election, all but two were victorious, with multiple candidates defeating established Republican incumbents.<sup>63</sup>

While Everytown's contributions to candidates and PACs have risen, contributions from the NRA dropped during the same time period.

The NRA has been making contributions since it formed its own PAC in 1977, in this decade using the NRA Political Victory Fund, NRA, NRA-Political Activity Fund, and NRA PAC to contribute to NM candidates and PACs.<sup>64</sup>

According to the Openness Project, the NRA contributed \$16,000 to New Mexico candidates and PACs in 2016.<sup>65</sup> In 2017, the NRA reported contributions of \$3,200: \$700 to the Republican Campaign Committee of NM, \$1,000 to Republican House Minority Leader Nate Gentry, \$750 to Republican House member Kelly Fajardo, and \$750 to Democratic House member Debbie Rodella.<sup>66</sup> In 2018, an election year, the NRA reported contributions totaling \$10,500 to 21 legislative candidates.<sup>67</sup> Only 11 of the 21 Republican candidates supported by the NRA won their races.<sup>68</sup>

Overall, the influx of Everytown campaign contributions in the past three years – \$455,500 – swamped the NRA and its allies, which spent \$71,572.65.

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<sup>63</sup> See <https://nmpoliticalreport.com/2019/03/14/everytown-for-gun-safety-gave-400000-to-new-mexico-democrats/> (“Of the 26 candidates who received donations from Everytown, only two lost the election. That’s a far more success than seen by candidates who received money from the NRA. Only 11 of the 28 candidates it supported were elected.”) See also <http://electionresults.sos.state.nm.us/resultsSW.aspx?type=LGX&map=CTY&lValue=025&gValue=001>

<sup>64</sup> See chart at [https://opennessproject.com/search/?term=NRA&table\\_name=candidate&table\\_name=pac&table\\_name=contribution&table\\_name=expenditure&table\\_name=lobbyist&table\\_name=organization&table\\_name=lobbyisttransaction](https://opennessproject.com/search/?term=NRA&table_name=candidate&table_name=pac&table_name=contribution&table_name=expenditure&table_name=lobbyist&table_name=organization&table_name=lobbyisttransaction). In contrast, expenditures are listed as being made by the following entities: Friends of NRA, NRA Foundation, NRA, NRA Political Victory Fund, Estancia Valley Friends of NRA, Socorro Friends of NRA, Friends of NRA Foundation, Rio Grande Friends of NRA, NRA NM, and Cavern City NRA.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> See footnote #63, supra.

## Pro- v. Anti-Gun Control Spending, 2017-2019

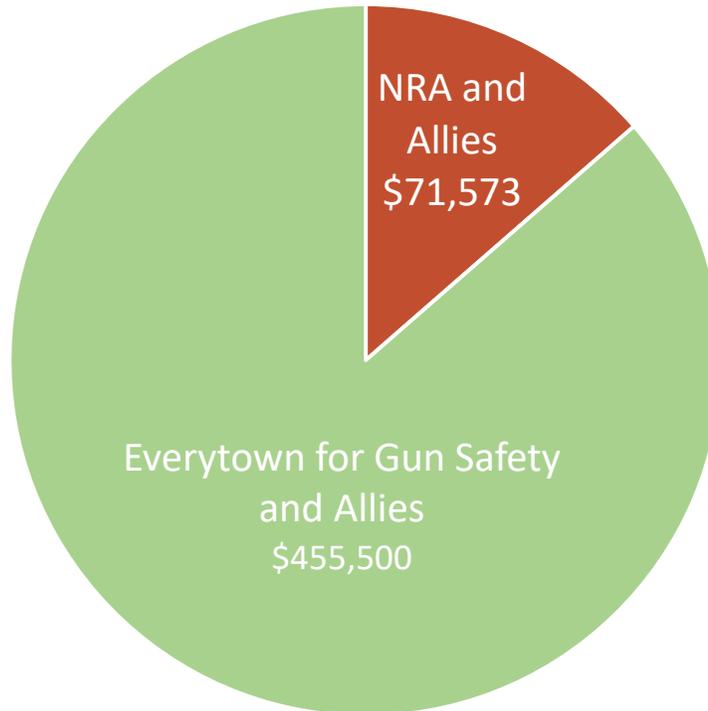


Chart 8: Pro- v. Anti- Gun Control Spending, 2017–2019

### New Tactics, New Plan

On its face, it appears that the NRA is not investing in New Mexico. However, in the aftermath of the 2019 passage of SB 8, requiring background checks for almost all gun sales, the NRA has found a new way to influence state policy: rural sheriffs.

In July 2019, the *Albuquerque Journal* reported on emails unearthed in a public records request by the Brady Center, a Washington, D.C.–based organization, revealing that the NM Sheriffs’ Association (NMSA) had “received extensive help from the NRA in their stance against state gun-control legislation.”<sup>69</sup> After the passage and signing of SB 8 into law, several NM sheriffs affirmed that they would refuse to enforce the law.

The Brady Center made a number of Inspection of Public Record Act (IPRA) requests to determine what and who were behind the sheriffs’ declarations. The Brady Center’s report revealed that “the National Rifle Association (NRA) closely coordinated with the sheriffs and influenced their refusal to enforce gun safety legislation.”<sup>70</sup> Further, it stated that:

NRA-funded lobbyists were in constant contact with NMSA President Tony Mace leading up to and following the passage of New Mexico laws to expand gun background checks and to expand prohibitory domestic violence crimes in the state. The NRA was

<sup>69</sup> AP, “Emails show NM sheriffs got NRA support,” *Albuquerque Journal*, May 21, 2019, <https://www.abqjournal.com/1318429/emails-show-nm-sheriffs-got-nra-support.html>

<sup>70</sup> “Rogue Sheriffs in New Mexico,” Brady, <https://www.bradyunited.org/reports/rogue-sheriffs-in-new-mexico>

also granted time to debrief the sheriffs on “anti-gun bills,” and sheriffs throughout the state were frequently given NRA talking points and information that they then passed off as their own.<sup>71</sup>

The Brady Center also reported that Mace was sent the NRA’s legal positions and talking points about gun violence prevention bills, and that the NRA asked him to distribute them to the other sheriffs. The report concluded that through ghostwriting and other communications, the NRA was using these sheriffs as an intermediary to further the NRA’s own agenda.<sup>72</sup>

The NRA responded to the Brady Center’s report by stating that “the steps it took to coordinate with sheriffs in protesting gun control measures were no different from those other groups take. . . .”<sup>73</sup> NRA spokesperson Catherine Mortensen called the whole report “a distraction from the support gun-control advocates received from out-of-state groups.”<sup>74</sup>

It remains to be seen whether the NRA’s shift to sheriff surrogates will counterbalance the electoral strategy followed by the gun control advocates.

Both sides acted aggressively, but in different ways. For Everytown for Gun Safety, contributions were given directly and through PACs to increase a Democratic majority in the House supportive of gun violence prevention legislation. A coordinated approach with House leadership and its PACs is evident. For the NRA, very little local spending occurred to elect gun control opponents in the NM House of Representatives. Instead, the NRA invested its time and resources in arming local actors with materials and arguments designed to persuade the public and Legislature to oppose gun control legislation.

## Firearms Lobbying Corps

Everytown for Gun Safety’s registered lobbying corps in New Mexico expanded over the years and in 2019 included Julianna Koob, Vanessa Alarid, Pedro Morillas, Natasha Ning, and Mark Fleisher. Most of these lobbyists represent multiple clients and are well known to legislators. The paid lobbyists were backed up by scores of red-shirted volunteers from Moms against Gun Violence, including students who staged a “die-in” in the New Mexico Capitol rotunda that captured media attention.

NRA regional lobbyist Tara Reilly-Mica is also well known to legislators, although she does not live in New Mexico. She represents only one client. She is assisted by local lobbyists Joe Thompson and Jim Smith, both former legislators, as well as Alexandra Garza. We have tracked these lobbyists’ contributions to legislators and PACs and the expenditures attributed to the NRA and Everytown.<sup>75</sup> The process is complicated by the fact that lobbyists do not always report on whose behalf they are contributing. Sometimes they report that they are making the contribution on behalf of their own company or another client. The ambiguity may confuse the

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<sup>71</sup> Ibid.

<sup>72</sup> “Rogue Sheriffs in New Mexico: Who Do They Serve?” Brady, <https://brady-static.s3.amazonaws.com/Report/RogueSheriffsInNewMexico-WhoDoTheyServe.pdf>

<sup>73</sup> AP, “Emails show NM sheriffs got NRA support,” *Albuquerque Journal*, May 21, 2019, <https://www.abqjournal.com/1318429/emails-show-nm-sheriffs-got-nra-support.html>

<sup>74</sup> Ibid.

<sup>75</sup> Tara Reilly-Mica reported an expenditure for “internet communication” with the recipient listed as “NRA” and the beneficiary listed as “Starboard Strategic, Inc.” Alexandra Garza listed the beneficiary as “NRA.” See Section “IV. Recommendations,” for a recommendation re: including definitions for “recipient” and “beneficiary” in the Lobbyist Regulation Act.

researcher, but it serves to increase the stature of the lobbyist in the eyes of legislators, who may believe they are powerful keys to many future contributions.

### Anti-Gun Control Lobbyists and Their Spending, 2017–2019

Anti-Gun Control Lobbyist	Employer	Expenditure	Contribution	Total Spending
Alexandra Garza	National Rifle Association of America	\$ -	\$ -	\$ -
Christopher Biles	National Rifle Association of America	\$ -	\$ -	\$ -
Joseph Thompson	National Rifle Association of America	\$ 12,686.37	\$ 2,950.00	\$ 15,636.37
Joseph Thompson	New Mexico Shooting Sports Association	see above	see above	see above
Tara Reilly-Mica	National Rifle Association of America	\$ 48,187.43	\$ -	\$ 48,187.43
<b>Totals</b>		<b>\$ 60,873.80</b>	<b>\$ 2,950.00</b>	<b>\$ 63,823.80</b>

Table 8: Anti-Gun Control Interests and their Spending, 2017-2019

### Pro-Gun Control Lobbyists and Their Spending, 2017–2019

Pro-Gun Control Lobbyist	Employer	Expenditure	Contribution	Total Spending
Mark Fleisher	Everytown for Gun Safety Action Fund	\$ 2,724.91	\$ 8,811.50	\$ 11,536.41
Natasha Ning	Gifford's Courage to Fight Gun Violence	\$ 14,250.01	\$ 18,407.10	\$ 32,657.11
Emily Walton	Everytown for Gun Safety Action Fund	\$ -	\$ 396,000.00	\$ 396,000.00
Julianna Koob	Everytown for Gun Safety Action Fund	\$ 4,596.84	\$ 56,535.00	\$ 61,131.84
Pedro Morales	Everytown for Gun Safety Action Fund	\$ 12,500.00	\$ 59,500.00	\$ 72,000.00
Vanessa Alarid	Everytown for Gun Safety Action Fund	\$ 49,506.44	\$ 36,500.00	\$ 86,006.44
	<b>Totals</b>	<b>\$ 83,578.20</b>	<b>\$ 575,753.60</b>	<b>\$ 659,331.80</b>

Table 9: Gun Lobbyists and Their Spending, 2017–2019

### Gun PACs and Business Spending, 2017–2019

Business/PAC Contributions	Expenditure	Contributions	Total Spending
NRA & NRA Victory Fund	\$ -	\$ 14,700.00	\$ 14,700.00
Everytown for Gun Safety	\$ -	\$ 455,500.00	\$ -
Los Ranchos Gun Shop	\$ -	\$ 1,342.53	\$ 1,342.53
Miller Guns & Ammo	\$ -	\$ 500.00	\$ 500.00
Rod & Gun Resources INC	\$ -	\$ 2,797.50	\$ 2,797.50
Albuquerque Guns	\$ -	\$ 200.00	\$ 200.00
Ron Peterson Firearms	\$ -	\$ 200.00	\$ 200.00
Gun Owners of America	\$ -	\$ 4,500.00	\$ 4,500.00
Safari Club International Southern NM Chapter	\$ -	\$ 955.40	\$ 955.40
<b>Totals</b>		<b>\$ 25,195.43</b>	<b>\$ 25,195.43</b>

Table 10: Gun PAC and Business Spending, 2017–2019

Here’s an example of the problem: According to the Secretary of State, NRA lobbyist Joe Thompson made almost \$88,000 in contributions to legislators in 2018–2019, most if not all on behalf of “Joseph Thompson”; Vanessa Alarid, an Everytown lobbyist, made more than \$56,000 in contributions during the same time period, most if not all on behalf of “Alarid Consulting.” There is no way to tell from the lobbyists’ reporting why the contributions were made and if they were given as a token of appreciation or otherwise from any particular special interest or interests. Absent such reporting, the contributions cannot be attributed to a special interest. These contributions that are not attributable to any one or several special interest groups magnify the power and clout of these multi-client lobbyists on every issue, not just guns. Are they an implicit donation from a particular special interest or interests? The requirements under the Lobbyist Regulation Act do not require this level of reporting. The fact is, however, that legislators may not want to cross these lobbyists on any issue for fear of losing contributions from the lobbyists’ other clients.

### PACS Are Everywhere

From 2017 to 2019, New Mexico PACs received large sums of money from firearms industry interests, both pro- and anti-gun control.

## PAC Recipients of Gun Interest Contributions, 2017–2019

PAC	Contributions
Stronger New Mexico	\$ 250,000.00
National Rifle Association of America	\$ 46,377.22 <sup>76</sup>
Patriot Majority New Mexico	\$ 40,000.00
True Blue PAC	\$ 5,500.00
Moe PAC	\$ 5,500.00
New Mexico Senate Democrats	\$ 5,500.00
A Strong New Mexico	\$ 5,500.00
NM Women Rising	\$ 5,500.00
House Democratic Campaign Committee	\$ 5,500.00
Forward New Mexico	\$ 5,500.00
SUN PAC	\$ 5,500.00
New Mexico Defense Fund	\$ 5,500.00
Zia 52	\$ 5,500.00
New Mexico Freedom	\$ 5,500.00
NM Senate Majority Leader PAC	\$ 5,500.00
People for Growing Our Economy	\$ 2,500.00
Republican Campaign Committee of New Mexico	\$ 950.00
<b>Grand Total</b>	<b>\$ 405,827.22</b>

Table 11: PAC Recipients of Gun Interest Contributions, 2017–2019

In addition to donating directly to candidates, from 2017 through October 2019 Everytown for Gun Safety donated just over \$316,000 to the following Democratic PACs: Zia 52, True Blue PAC, SUN PAC, Stronger New Mexico, NM Women Rising, NM Senate Majority Leader PAC, New Mexico Senate Democrats, New Mexico House Democratic Campaign Committee, NM Freedom, NM Defense Fund, Moe PAC, Forward NM, and A Strong NM PAC. These PACs then distribute money to legislators or to other PACs, or make expenditures benefiting candidates and parties.

Once a special interest like Everytown or the NRA distributes funds to a PAC, the money becomes difficult, if not impossible, to follow.<sup>77</sup>

<sup>76</sup> Ibid, footnote #75.

<sup>77</sup> In October of 2018, Everytown for Gun Safety reported a \$250,000 contribution to the Stronger New Mexico PAC. In its November 2018 Report of Expenditures and Contributions, Stronger New Mexico reported receiving \$250,000 from Everytown (they also reported receiving almost \$122K from Emily’s List and \$150K from A Better Future for New Mexico, both PACs). Stronger New Mexico also reported two media buys with Great American Media in Washington, D.C., on 10/19/18 and 10/29/19, each totaling around \$170K. With no requirement to detail which issues or candidates the buys were in support of, it is impossible to know if Stronger New Mexico’s media buys were for ads related to firearms issues. A review of A Strong New Mexico’s contributions during 2018 shows money going to representatives, but not senators.

<https://www.cfis.state.nm.us/media/ContributorsCDetails.aspx?cn=A+Strong+New+Mexico&add=PO+Box+7553&ct=Albuquerque&st=NM&z=87194>

## **Did the Firearms Groups Tactics Make a Difference on Background Check Bill (SB 8)?**

In New Mexico, bills requiring background checks for gun purchases at gun shows and over the Internet have been introduced in almost every session since 2013. What effect have contributions, expenditures, and other tools used by either side had on the outcome?

With a few notable exceptions, gun contributions almost always follow party lines. NRA groups, gun dealers, and their lobbyists almost always give to Republicans. Everytown for Gun Safety, gun control groups, and their lobbyists almost always give to Democrats. The pattern holds true for statewide candidates as well, with 2018 gubernatorial candidates Michelle Lujan Grisham (D) collecting \$11,000 from Everytown and gun control lobbyists in 2018 and Steve Pearce (R) collecting \$6,947 from gun-related businesses in 2017 and 2018.

## Pro- and Anti-Gun Control Contribution Recipients, 2017-2019

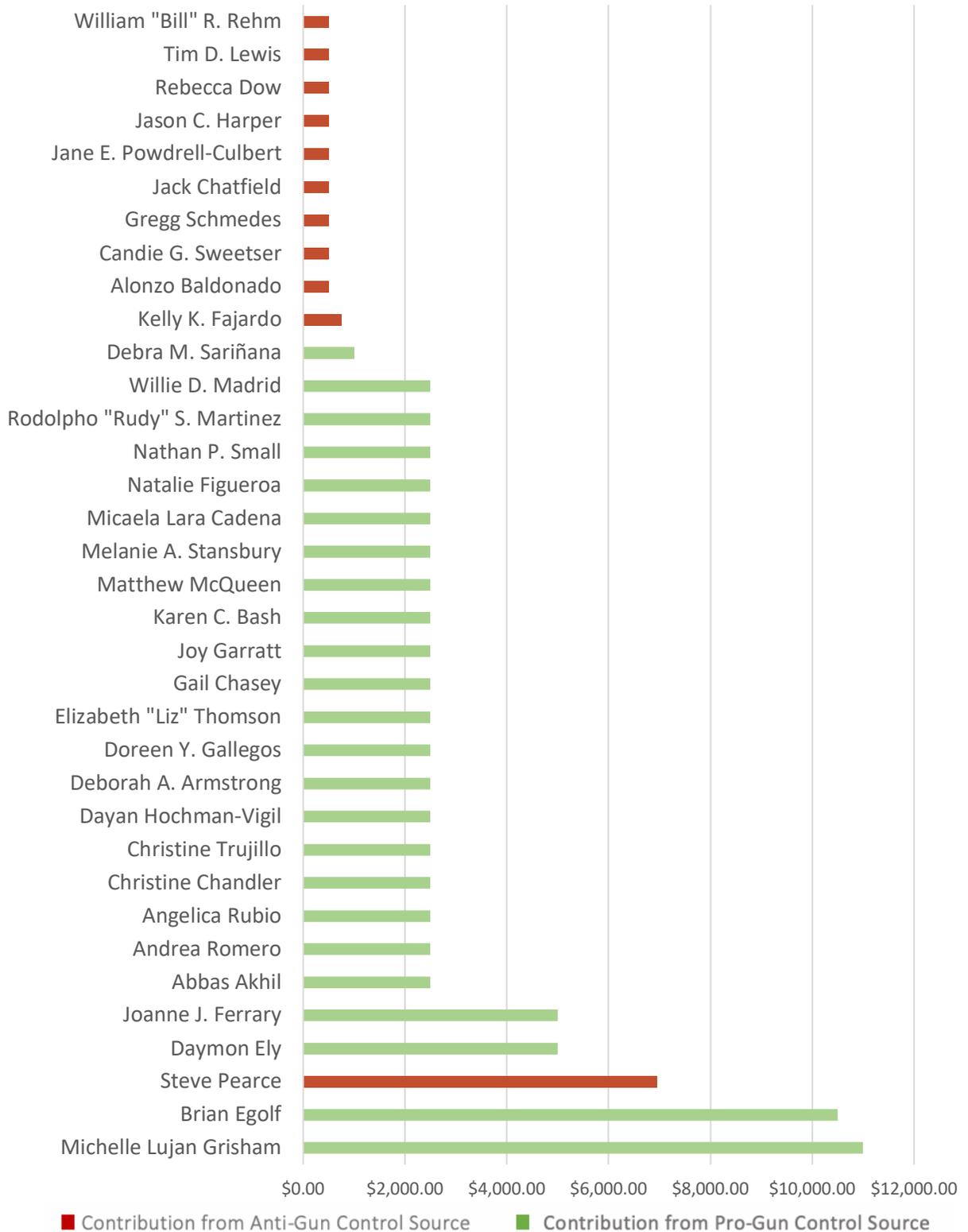


Chart 9: Recipients of Gun Interest Contributions, 2017–2019

As we have seen, in 2018–2019, contributions from Everytown for Gun Safety and gun control lobbyists vastly outpaced contributions from NRA affiliates and their lobbyists.

This disparity in campaign cash – especially in the House of Representatives – was the backdrop for the 2019 Legislature’s consideration of universal background checks for gun sales, HB 8, sponsored by Reps. Sarinana, Roybal-Caballero, Garrett, Figueroa, and Egolf, and SB 8, sponsored by Sen. Richard Martinez and Sen. Peter Wirth. SB 8, which is the bill we are tracking here, is essentially the same as SB 48, sponsored by the same two senators, as well as HB 50, sponsored by then-Rep. Stephanie Garcia-Richard. Both bills were introduced in 2017, the previous 60-day session, and both were highly contested, with the NRA sponsoring a \$44,377 digital campaign on Facebook and other Internet avenues to create a deluge of calls, letters, and emails to legislators. The campaign was conducted by the NRA affiliate Starboard Strategic.<sup>78</sup> According to the *NM Political Report*, the NRA and Everytown had made political contributions going into that session as well, with Everytown donating \$219,000 and the NRA donating \$10,000 to candidates in 2016.<sup>79</sup>

Neither of the background check bills passed in 2017. Garcia Richard’s House bill made it to the floor, but it was sent back to committee before a vote was taken. SB 48 died in the Senate Judiciary Committee, chaired by Senator Martinez, one of the sponsors of 2019’s SB 8.

But by 2018, the political winds had changed. Democrats had increased their majority in the House from 38 to 46, recovering quickly from the 2014 election, which gave Republicans control of the House from 2015–2016. Everytown for Gun Safety took partial credit for the Democratic sweep. Stacey Radnor, public affairs director for Everytown, said in a 2019 e-mail to *NM Political Report* that Moms Demand Action volunteers and gun violence survivors in New Mexico had more than 2,200 conversations at doors and 17,000 phone conversations with New Mexico voters to support gun sense candidates.<sup>80</sup> Of the 26 candidates who received contributions from Everytown, only two lost their elections. Only 11 of the 28 candidates the NRA supported were elected.<sup>81</sup>

In 2019, with nine new Democratic House members, the background check bill, SB 8, passed the House 42 to 27 and passed the Senate 22 to 20. It was signed into law by the new governor, Michelle Lujan Grisham, on March 8, 2019.

The Everytown forces contributed to 36 of the 42 Democratic representatives voting for the bill, with the average contribution of those who voted for the bill amounting to \$1,642.85. Nineteen of the “Yes” votes had received \$2,500 directly attributed to Everytown for Gun Safety.<sup>82</sup> Some – but not all – of the 27 “No” votes received money from the NRA and their lobbyists, and the average was much smaller – \$194.44 per “No” vote. Nine of the “No” votes received \$500. One, Rep. Kelly Fajardo, received \$750.

Zero Republicans voted for the bill. The only defectors from the Democratic Party were Rep. Patricio Ruiloba, Harry Garcia, and Candie Sweetser, who received \$500 from an NRA PAC. Democrat Joseph Sanchez was excused from the vote.

In evaluating the House vote, it is evident that there is a pronounced correlation between contributions and votes on both sides of the issue.

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<sup>78</sup> See footnote #75, supra.

<sup>79</sup> <https://nmpoliticalreport.com/2017/02/17/nra-tops-lobbyist-spending-with-44k-online-ad/>

<sup>80</sup> <https://momsdemandaction.org/about/>

<sup>81</sup> See footnote #63, supra.

<sup>82</sup> <https://www.nmlegis.gov/Sessions/19%20Regular/votes/SB0008HVOTE.pdf>

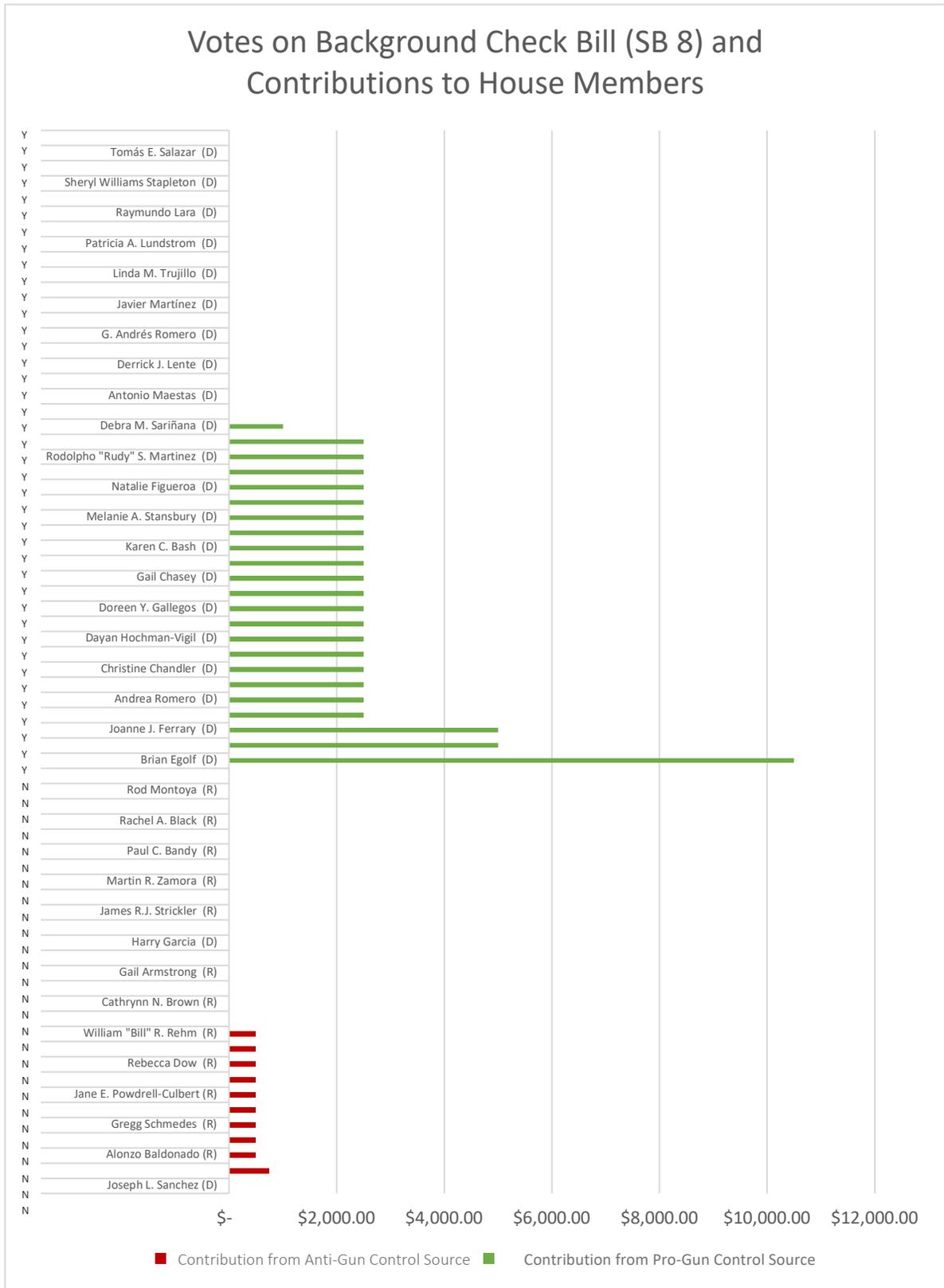


Chart 10: Gun Interests' Contributions to NM House Members, 2017–2019, and Floor Votes on SB 8/ aaa. "Y" is a "Yes" vote; "N" is a "No" vote.

In the New Mexico Senate, where members stand for election every four years, the partisan composition had not changed since the 2017 introduction of background check bills.<sup>83</sup> Contributions to senators are typically down or non-existent in off-election years. Only three senators received contributions attributed to either the NRA or Everytown, with the Everytown forces contributing \$6,000 and the NRA forces contributing \$0 in 2018–2019.<sup>84</sup>

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<sup>83</sup> Senators ran for office in 2016 and will run again in 2020. The NM Senate is currently composed of 22 Democrats and 16 Republicans.

<sup>84</sup> Sen. O’Neill (\$1,000), Sen. Soules (\$2,500), and Sen. Stefanics (\$2,500), all in October 2016.



Chart 11: Gun Interests' Contributions to NM Senate Members, 2017–2019, and Floor Votes on SB 8 /aaa

But contributions – or the lack thereof – are only part of the story. Expenditures reported in 2017 through October of 2019 by NRA lobbyists totaled \$46,377, all by Tara Mica-Reilly. Everytown lobbyists spent \$0 in expenditures during those years.

SB 8 passed the Senate with a narrow margin, 22 to 20, with less party-line voting. All of the chamber’s Republicans voted against the bill, but four of the chamber’s Democrats, Sen. George Munoz, Sen. Clemente Sanchez, Sen. Gabriel Ramos, and Sen. John Arthur Smith, joined them. None of the dissenters had received contributions from the NRA forces in 2018. The Democratic defections were not enough to defeat the bill.

There are several explanations for the bill’s passage in the Senate, based on the high-priority nature of background checks to New Mexico Democrats and personal politics among the senators.

House members had earlier introduced the duplicate bill HB 8, which had passed the House, 41 to 25. The huge margin gave senators courage, according to one observer. SB 8 passed out of Senate Judiciary almost immediately upon passage in the House. The sponsor of the bill, Sen. Richard Martinez, reportedly used his clout with swing voters and fellow northern Democrats, Carlos Cisneros and Pete Campos, who ultimately voted for the bill. And Sen. Mary Kay Papen, who had misgivings likely to lead to a “No” vote, was assured by fellow Southerner Sen. Joseph Cervantes, according to one observer.

A team of some of the Legislature’s most adept lobbyists, including Vanessa Alarid and Julianna Koob, on behalf of Everytown for Gun Safety, fanned out across the Senate. They targeted possible negative votes, such as Sens. Daniel Ivey-Soto and John Sapien, who had also attracted the attention of the NRA since they represent swing districts. The Everytown lobbyists got assistance from the fourth floor, as well.

Governor Michelle Lujan Grisham had made background checks an issue on the campaign trail, initially during her tenure as a congresswoman and then when she ran for governor. She raised the issue in the wake of the 2018 Stoneman Douglas High School shooting in Parkland, Florida, and a 2017 school shooting in Aztec, NM, which left two students dead. She also mentioned the issue in her inaugural address and her state of the state address opening the 2019 legislative session. Her staffer Victor Reyes was in weekly contact with Everytown lobbyists as together they worked the senators. The governor herself received \$11,000 in contributions directly attributable to Everytown and an additional \$25,750 in contributions from lobbyists for Everytown.<sup>85</sup>

Additionally, SB 8 was co-sponsored by Senate Majority Leader Peter Wirth, who, in addition to his persuasive power, operates two PACs, the NM Senate Majority Leader PAC, and NM Senate Democrats. Each PAC received contributions from Everytown in 2018: \$5,500 to NM Senate Majority Leader PAC, and \$500 to NM Senate Democrats.

### **C. Behind-the-Scenes Power of Insiders and Lobbyists Magnified in Substitute, Omnibus Bills**

Before bills ever reach the floor of either the House or the Senate for a vote, they must pass through multiple committees where they can be altered by amendments and even substituted with another measure altogether. Sometimes bills that pass both chambers are referred to a committee – a conference committee – if the House and Senate do not agree on the amendments

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<sup>85</sup> As noted previously, these lobbyist contributions were made on behalf of “self,” the lobbyist, or the lobbyist’s company – or with no attribution.

one or the other has attached. There, last-minute changes to bills can be made, sometimes without adequate time for the chambers to examine them in detail before final votes are cast and the fate of the bill determined.

Here we examine two complex bills that were significantly changed in committee to benefit two big-spending special interests – the film industry and two subsets of the tobacco industry – e-cigarettes and cigars. Many legislators did not even realize there were special tax exemptions contained in the larger bills. But some of the most skilled and powerful lobbyists in Santa Fe, who were representing the two industries, were following every move.

Both of the bills we track here (HB 6 and SB 2) were tax bills. The shaping of tax policy is one of the most complicated tasks the Legislature must tackle. Often tax bills are technical documents with arcane references to obscure sections of the tax code that only specialists, a few staffers, and lobbyists understand fully. Usually, as in the case of HB 6, the tax bills are omnibus bills that include everything from changes in the income tax brackets to motor vehicle excise tax hikes.

Not being experts, legislators tend to defer to the finance and tax committees, whose members have had a chance to examine the bills in detail. This is where lobbyists with technical expertise – and connections – can make a big difference. Many are old hands who are familiar with the committee system and who know how to amend legislation, craft compromises, or stall for time to let a bill die.

**New Mexico Film Partners Get a Break in Substitute Bill**

Ever since the 1930s and 1940s, when iconic Western movies were filmed in the state, the film industry has had a special place in the hearts of New Mexicans. Gov. Dave Cargo, a fan of the industry, even had a bit part in one movie. During the past decade, the industry and its local union, the International Alliance of Theatrical and Stage Employees (IATSE Local 480), has grown in influence, with \$74,084.60 in contributions to candidates, PACs, and the Democratic Party from 2017–2019. Their pitch: This clean, creative industry creates thousands of local jobs for actors, crew members, caterers, make-up artists, and many others. Gov. Bill Richardson (D) was receptive. During his administration, the state began to use tax rebates to lure the industry, which was then drifting to Canada and other states where the incentives were better. In the name of economic development, the makers of both movies and TV series such as the popular *Breaking Bad* enjoyed 25% credit on all money spent in the state.

**Film Industry Lobbyists and Their Spending, 2017–2019**

Lobbyist or Individual Who Contributed	Employer	Contributions	Expenditures	Total Spending
Little West	IATSE Local 480	\$ ---	\$ 9,361.44	\$ 9,361.44
Joshua Rosen	Albuquerque Studios	\$ 7,032.87	\$ ---	\$ 7,032.87
Richard Longo	IATSE Local 480	\$ 4,960.00	\$ ---	\$ 4,960.00
Dave Gladstone	Edit House Productions Inc.	\$ 715.07	\$ ---	\$ 715.07
Adetayo Ogundehin	Florida Film PAC	\$ 500.00	\$ ---	\$ 500.00

Doug Acton	IATSE Local 480	\$ 500.00	\$ ---	\$ 500.00
Danika Padilla	Meow Wolf	\$ 327.00	\$ ---	\$ 327.00
Jennie Crystle	Crystle Films	\$ 75.00	\$ ---	\$ 75.00
Michelle Franks	GLADWOOD STUDIOS	\$ 10.00	\$ ---	\$ 10.00
		<b>\$ 14,119.94</b>	<b>\$ 9,361.44</b>	<b>\$ 23,481.38</b>

Table 12: Film Interest Spending, 2017–2019

### Film Industry Contributions, 2017–2019

Contributor	Amount
Visions NM	\$ 23,850.00
IATSE	\$ 20,781.44
Gypsy Entertainment LLC	\$ 5,500.00
Fresquez Productions, Inc.	\$ 5,256.60
Albuquerque Studios (in kind)	\$ 4,032.87
ABQ Studios	\$ 3,000.00
Santa Fe Motion Picture LLC	\$ 1,900.00
Pacifica Mesa Studios	\$ 1,500.00
Edit House Productions	\$ 1,464.14
Pacifica Mesa Studios, LLC	\$ 1,400.00
Florida Film PAC	\$ 1,000.00
Mike Post Productions, Inc.	\$ 900.55
New York Film PAC	\$ 500.00
Illinois Film PAC	\$ 500.00
PRC Productions	\$ 500.00
Motion Picture Association of America, Inc.	\$ 500.00
New Jersey Film PAC	\$ 500.00
Meow Wolf	\$ 354.00
Studio SW	\$ 250.00
Rocks the Rock Productions	\$ 250.00
Crystle Films	\$ 75.00
Sandra McKnight dba Voice Power Studios	\$ 35.00
Filmtec Corporation	\$ 25.00
GLADWOOD STUDIOS	\$ 10.00
<b>Grand Total</b>	<b>\$ 74,084.60</b>

Table 13: Film Interest Contributions, 2017–2019

When critics, especially during the administration of Gov. Susanna Martinez, complained that the rebates were too generous, the Legislature placed an annual cap on the rebates. Gov. Michelle Lujan Grisham came to office in 2019 vowing to remove the cap, repay the backlog, and open the doors to more productions. SB 3, sponsored by Sen. Nancy Rodriguez, was aimed in that direction. It increased the amount of the annual cap for film production from \$50 million to \$110 million. After holding Sen. Rodriguez’s SB 3 for three weeks, the Senate Corporations Committee created a substitute bill that also contained a new provision using a new term, “New Mexico film partners.” These partners were companies who agreed to purchase or lease a film production facility for at least ten years. They included just two companies, Netflix and NBC Universal – but the number of partners could grow. Rebates to these new partners were excluded from the cap and not subject to limitation.

Opponents began to decry this giant loophole almost immediately, which some said would cost the state too much. Even legislative analysts said the state would only recoup 40 cents for every \$1 of subsidy. Each job created cost the state as much as \$39,000.<sup>86</sup>

All the Democrats on the Senate Corporations Committee had received contributions from the film industry or their lobbyists. The chair, Clemente Sanchez, received \$500; Sen. Benny Shendo, vice chair, received \$250; Sen. Michael Padilla received \$250; Sen. Mary Kay Papan received \$250; and Sen. Bill Tallman received \$250. Republican committee members Sens. Bill Sharer, Pat Woods, and Gregg Fulfer received nothing.

### Film Industry Contributions to Candidates, 2017–2019

Candidate	Amount
Michelle Lujan Grisham	\$ 13,939.47
Brian S. Colon	\$ 5,500.00
Dr. Ray Bennett Powell	\$ 5,100.00
Nate Gentry	\$ 2,715.07
Rick S. Miera	\$ 1,900.00
Michael Sanchez	\$ 1,500.00
Antonio Maestas	\$ 1,500.00
Brian F. Egolf	\$ 1,000.00
Bill McCamley	\$ 1,000.00
Jeff Apodaca	\$ 900.55
Carl Trujillo	\$ 900.00
Doreen Ybarra Gallegos	\$ 500.00

Peter Wirth	\$ 500.00
Patricia A. Roybal Caballero	\$ 500.00
Tim Eichenberg	\$ 500.00
Javier I Martinez	\$ 500.00
Jim R. Trujillo	\$ 500.00
Nathan P Small	\$ 500.00
John M. Sapien	\$ 500.00
Peter DeBenedittis	\$ 500.00
Linda M. Trujillo	\$ 500.00
Rep. Antonio "Moe" Maestas'	\$ 500.00
Bealquin "Bill" Gomez	\$ 500.00
Guenevere Ruth McMahan	\$ 500.00
Clemente Sanchez	\$ 500.00
John Arthur Smith	\$ 500.00

<sup>86</sup> Estimate found in “Appendix B, New Mexico Legislative Finance Committee Fiscal Impact Report,” for Senate Corporations and Transportation Committee Substitute for Senate Bill 2, March 15, 2019. See also Sen. James P. White, “NM pays \$39K for every film job,” *Albuquerque Journal*, Oct. 19, 2019, <https://www.abqjournal.com/1380382/nm-pays-39k-for-every-film-job.html> and Dick Milner, “Call ‘cut!’ on exorbitant film subsidies,” *Albuquerque Journal*, Sept. 8, 2019, <https://www.abqjournal.com/1363373/call-cut-on-exorbitant-film-subsidies-ex-theres-a-smarter-way-to-grow-nms-economy-than-paying-out-39k-for-every-job-created.html>

David E. Adkins	\$ 459.56
Andrea Romero	\$ 300.00
Yvonne M. Chicoine	\$ 289.51
Carlos R. Cisneros	\$ 250.00
Patricia "Patty" A. Lundstrom	\$ 250.00
Michael Padilla	\$ 250.00
Mary Kay Papen	\$ 250.00
Bill G. Tallman	\$ 250.00
Howie C. Morales	\$ 250.00
Miguel P. Garcia	\$ 250.00
Raymundo Lara	\$ 250.00
Benny Shendo	\$ 250.00
Roberto "Bobby" Jesse Gonzales	\$ 250.00

Nancy Rodriguez	\$ 250.00
Daymon B. Ely	\$ 250.00
George K. Munoz	\$ 250.00
Kate Noble	\$ 250.00
Angelica Rubio	\$ 250.00
Ronald R. Silversmith	\$ 150.00
Matthew K. Hughbanks	\$ 100.00
Mary Martinez-White	\$ 50.00
Garrett Veneklasen	\$ 27.00
Billie Ann Helean	\$ 27.00
<b>Grand Total</b>	<b>\$ 48,608.16</b>

Table 14: Film Industry Contributions to Candidates, 2017–2019

The substitute bill passed the Sen. Corporations Committee unanimously and passed the Senate floor by a wide margin (32–8). It was assigned to only one committee in the House and within two days had passed on the floor, 41 to 24.

When the bill reached the House floor, Rep. Paul Bandy (R-San Juan) attempted to amend the bill to remove the provision that exempted certain film production companies from the aggregate cap. It was not adopted. The bill was signed by the governor shortly thereafter.

By all accounts, the bill was one of the governor’s major economic development priorities. During the campaign and at the start of the session, she repeatedly signaled that she wanted to remove the cap on subsidies and pay back companies that had not received their 25% credit when the cap was in place. The industry, its union (IATSE), and its PAC (Visions NM), had been loyal supporters of Democratic candidates for years, giving \$14,000 to Michelle Lujan Grisham, \$9,280 to the Democratic Party, and more to Democratic candidates at the local, statewide, and legislative levels from 2017–2019. In addition, members of the union often help with special events, setting up lighting, speakers, and sound systems.

Their loyalty had paid off.

### Film PAC Recipients, 2017–2019

PAC Recipient	Amount
Democratic Party of New Mexico	\$ 7,985.00
Community First Coalition	\$ 5,000.00
Santa Fe County Democratic Party	\$ 1,295.00
Visions New Mexico	\$ 1,050.00
Brian Egolf Speaker Fund	\$ 500.00
NM NAIOP PAC	\$ 250.00
DLCC New Mexico Committee	\$ 35.00
<b>Grand Total</b>	<b>\$ 16,115.00</b>

Table 15: PAC Recipients of Film Interest Contributions, 2017–2019

**Film Industry PAC Spending, 2017–2019**

Film PAC	Total Spending
Visions NM	\$ 23,850.00
IATSE	\$ 20,781.44
Florida Film PAC	\$ 1,000.00
New York Film PAC	\$ 500.00
New Jersey Film PAC	\$ 500.00
Illinois Film PAC	\$ 500.00
<b>Grand Total</b>	<b>\$ 47,131.44</b>

Table 16: Film Industry PAC Spending, 2017–2019

**Omnibus Tax Bill Includes Special Rates for Vaping, Cigar Interests**

Lobbyists for Big Tobacco are in every state legislature from Georgia to Alaska. The industry’s campaign contributions to candidates and PACs are huge. From 2017–2019, the tobacco industry spent \$402,450 contributing to NM candidates and covering related expenses for officials. Only \$9,873 in total spending (contributions and expenditures) was attributed to anti-tobacco forces, including the American Cancer Society, over the same time period. And the lobbying prowess of this controversial interest group is on display every time there is a measure in a state legislature to ban indoor smoking or increase the tax on tobacco products. New Mexico is no different; 14 lobbyists for various segments of the industry are working in NM. Four of these lobbyists are ex-legislators, one of whom, Tim Jennings, is the former President Pro Tem of the Senate.

**Tobacco Industry Lobbyists, 2017–2019**

Tobacco Lobbyist	Employer	Goal
Blair Dunn	Oasis Vape	Pro-tobacco
Bob Barbarousse	Cigar Association of America	Pro-tobacco
Cristoforo Balzano	Oasis Vape	Pro-tobacco
Jim Smith	Vapor Technology Association	Pro-tobacco
John Thompson	Juul Labs, Inc	Pro-tobacco
Luke Otero	RAI Services	Pro-tobacco
Mickey Barnett	RAI Services	Pro-tobacco
Mo Chaves	Oueis Vape	Pro-tobacco
Robert Donaldson	Altria Client Services	Pro-tobacco
Scott Scanlan	Altria Client Services	Pro-tobacco
Timothy Jennings	Juul Labs, Inc	Pro-tobacco

<b>Vanessa Alarid</b>	Vapor Technology Association	Pro-tobacco
<b>Wake Gardner</b>	Vapor Technology Association	Pro-tobacco

Table 17: Tobacco Industry Lobbyists, 2017–2019

### Anti-Tobacco Lobbyists, 2017–2019

Anti-Tobacco Lobbyist	Employer	Goal
<b>Sandra Adondakis</b>	American Cancer Society Cancer Action Network	Anti-tobacco
<b>Linda Siegle</b>	American Cancer Society Cancer Action Network	Anti-tobacco
<b>Marisa Trujillo</b>	American Cancer Society Cancer Action Network	Anti-tobacco
<b>Nathan Bush</b>	American Cancer Society Cancer Action Network	Anti-tobacco

Table 18: Anti-Tobacco Interest Lobbyists, 2017–2019

### Tobacco Industry and Anti-Tobacco Lobbyist Contributions, 2017–2019

Lobbyist	Employer	Contributions
Luke Otero	RAI Services	\$ 54,750.00
Robert Donaldson	Altria Client Services	\$ 196,500.00
Sandra Adondakis	American Cancer Society Network	\$ 175.00
	<b>Grand Total</b>	<b>\$ 251,425.00</b>

Table 19: Tobacco Interest Lobbyist Contributions, 2017–2019

### Tobacco Interest Contributions, 2017–2019

Contributor	Amount
Altria	\$ 281,800.00
RAI	\$ 97,500.00
BSR Distributing	\$ 17,950.00
JUUL Labs Employees PAC	\$ 3,000.00
New Mexico Pro Business PAC	\$ 1,300.00
Dosal Tobacco Corporation	\$ 500.00
Mark's Pipe	\$ 300.00
Bakery, Confectionery, Tobacco Workers, and Grain Millers' Intl Union (BCTGM) Local 351	\$ 100.00
American Cancer Society Action Network	\$ 175.00
<b>Grand Total</b>	<b>\$ 402,625.00</b>

Table 20: Tobacco Interest Contributions, 2017–2019

## Tobacco Interest Total Spending, 2017-2019

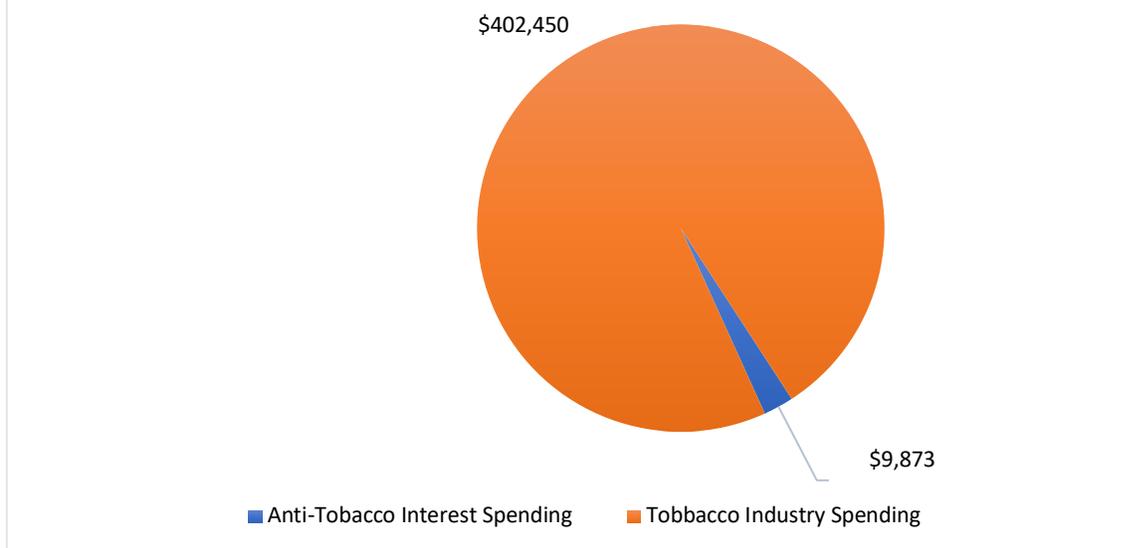


Chart 12: Tobacco Interest Total Spending, 2017-2019

Now there is a new, controversial segment of the industry – e-cigarettes and vaping. Lobbyists from Vapor Technology Association, Oasis Vape, and Juul Labs contend that vaping is less dangerous than smoking and a good way to quit. However, in the wake of the 2019 legislative session, recent deaths, especially among teenagers, have raised questions about that argument, at least concerning youth. The NM Health Department recently reported three new vaping-related cases of lung injuries, bringing the state’s total to 21, 13 of which required intensive care.<sup>87</sup> Of those impacted, 77% reported using THC when vaping. The CDC recently identified vitamin E acetate in the lungs of victims and is strongly discouraging vaping THC products.

The vaping lobbyists were on high alert during the 2019 session, since several bills to ban flavored nicotine solutions, raise the purchasing age on e-cigarettes and tobacco products from 18 to 21, and restrict indoor vaping had been proposed. Of these, only the restriction on indoor vaping was successful.

Less noticeable, however, were changes in the tax on tobacco products embedded in HB 6, an omnibus tax bill, sponsored by Reps. Jim Trujillo, Sheryl Williams Stapleton, Javier Martinez, Susan Herrera, and Antonio Maestas. The 139-page bill included tax credits for low-income families, changes in taxes levied on non-profit hospitals, Internet transactions, and sales of motor vehicles. Also included was a 25% tax on tobacco products, including a hike in the cigarette tax to .10 per cigarette.

In the course of the tangled legislative process, the vaping lobby was able to obtain a reduction in the new rate to 12.5%, and the cigar industry got an even bigger exception, with cigar taxation capped at .50 per cigar no matter how expensive the cigar.

Lobbyists for the vaping industry followed as the bill moved through the House and then the Senate to its last stop, a last-minute conference to iron out differences between the House and

<sup>87</sup> As of December 23, 2019. See <https://nmhealth.org/about/erd/ehb/vri/>

Senate versions of the bill. The governor’s legislative liaison, Victor Reyes, was also involved in the process, consulting with both lobbyists and legislators. The lobbyists for Vapor Technology Association were Vanessa Alarid (wife of Rep. Antonio Maestas), Jim Smith (former legislator), and Wake Gardner. Other lobbyists included Blair Dunn, (Oasis Vape), Mo Chavez (Oueis Vape), as well as John Thompson and former Senate President Tim Jennings, both of whom represented Juul, a leading brand of electronic cigarettes. Bob Barbarousse represented the Cigar Association of America.

The tax breaks for the two tobacco industries became part of the omnibus tax bill during a conference committee of House and Senate members in the waning hours of the 2019 session. Until a few years ago, proceedings of conference committees were held behind closed doors. But since 2009, they have been open to the public and the press. But even with this added transparency, there was little time for the public or lobbyists for the American Cancer Society to catch up to the behind-the-scenes deals. According to one conference committee member, House sponsors and the chairs of the Senate Finance and Corporations committees met the Friday night before the Saturday end of the session. Senators were not happy with capital gains and personal income tax changes, and representatives were unwilling to change. Facing the demise of the entire tax package, the next day they reached a compromise whereby the personal income tax provisions would go into effect only if revenues did not grow by 5% over the previous fiscal year.<sup>88</sup> The compromise was the subject of a conference committee report that was ultimately adopted by each chamber. The “smaller items” like the tobacco taxes, also in the conference committee report, went largely unexamined. They were not a high enough priority for either the governor or the legislators as they focused on other issues.

Senator Clemente Sanchez, however, succeeded in inserting a measure to cap the taxes on cigars that had been included in his own tax bill (SB 166). A reduced tax on electronic cigarettes, fluids, and cartridges was also inserted at the last minute. With time running short, members of the conference committee did not vote on each item of the conference committee report; however, with the exception of one House member, Rep. Jason Harper (R- Sandoval), all signed the report.

Members of the conference committee included Rep. Jim Trujillo, Rep. Javier Martinez, Rep. Jason Harper, Sen. Clemente Sanchez, Sen. John Arthur Smith, and Sen. Steven Neville.

Once the conference committee had agreed, legislators had little time to examine its report, which ran to 17 pages. The bill passed on March 16, the last day of the session.

Without much notice, the insiders and lobbyists for vaping and cigar industries had gotten a sweet deal on the taxes that other tobacco companies were now scheduled to pay.

### **Tobacco Interest Contributions to Candidates, 2017–2019**

Candidate	Amount
Michelle Lujan Grisham	\$ 7,875.00
Jim. R. Trujillo	\$ 7,000.00
Steve E. Pearce	\$ 7,000.00
Nate Gentry	\$ 7,000.00
Javier Martinez	\$ 4,000.00

Roberto Gonzales	\$ 3,750.00
Antonio Maestas	\$ 3,750.00
James Townsend	\$ 3,750.00
Patricio R. Ruiloba	\$ 3,500.00
Patricia A. Lundstrom	\$ 3,500.00
Mary Kay Papen	\$ 3,500.00
Jason Carl Harper	\$ 3,000.00

<sup>88</sup> See Section 61 of HB 6, final version, introduced in 2019.  
<https://www.nmlegis.gov/Sessions/19%20Regular/final/HB0006.pdf>

Joseph Sanchez	\$ 3,000.00
Stuart Ingle	\$ 3,000.00
Trey Stephen Morris	\$ 3,000.00
Hector Balderas	\$ 3,000.00
Mark David Moore	\$ 3,000.00
David E. Adkins	\$ 2,750.00
Larry Scott	\$ 2,750.00
Brenda Diane Boatman	\$ 2,500.00
Eliseo Lee Alcon	\$ 2,500.00
Don Tripp	\$ 2,500.00
Kelly K. Fajardo	\$ 2,500.00
Antonio Maestas	\$ 2,250.00
Sharon E. Clahchischilliage	\$ 2,250.00
George Dodge Jr.	\$ 2,000.00
Tim D. Lewis	\$ 2,000.00
Richard Martinez	\$ 2,000.00
Clemente Sanchez	\$ 2,000.00
John Arthur Smith	\$ 2,000.00
Rebecca L. Dow	\$ 2,000.00
Cathrynn Brown	\$ 1,750.00
James Strickler	\$ 1,750.00
Robert S. Godshall	\$ 1,550.00
Debbie A. Rodella	\$ 1,500.00
Carl Trujillo	\$ 1,500.00
Joseph Cervantes	\$ 1,500.00
James White	\$ 1,500.00
Daniel A. Ivey-Soto	\$ 1,500.00
John Patrick Woods	\$ 1,500.00
Jacob R. Candelaria	\$ 1,500.00
Steve Neville	\$ 1,500.00
Monica Youngblood	\$ 1,500.00
Alonzo Baldonado	\$ 1,500.00
Zach Cook	\$ 1,250.00
Jane Powdrell-Culbert	\$ 1,250.00
Jimmie C. Hall	\$ 1,250.00
Lee S. Cotter	\$ 1,250.00
Micaela Cadena	\$ 1,275.00
William Rehm	\$ 1,000.00
Harry Garcia	\$ 1,000.00
William H. Payne	\$ 1,000.00
George Munoz	\$ 1,000.00
Diego Espinoza	\$ 1,000.00
William Sharer	\$ 1,000.00
William Burt	\$ 1,000.00
Sarah Maestas Barnes	\$ 1,000.00

Ricky Little	\$ 1,000.00
Ray L. Gallegos	\$ 1,000.00
Rodney D. Montoya	\$ 1,000.00
Phelps Anderson	\$ 750.00
Greg Nibert	\$ 750.00
Candy Ezzell	\$ 750.00
Randal Crowder	\$ 750.00
David Gallegos	\$ 750.00
Mr. Jackey O. Chatfield	\$ 550.00
Christina Marie Hall	\$ 500.00
Paul A. Pacheco	\$ 500.00
Lisa Torracco	\$ 500.00
Yvette Herrell	\$ 500.00
Cliff R. Pirtle	\$ 500.00
Rod Montoya	\$ 500.00
Sandra Rue	\$ 500.00
Jeremy Ryan Tremko	\$ 500.00
Candace Ruth Gould	\$ 500.00
Andrew Nunez	\$ 500.00
Gay G. Kernan	\$ 500.00
Craig Brandt	\$ 500.00
Gail "Missy" Armstrong	\$ 500.00
Paul C. Bandy	\$ 500.00
Peter Wirth	\$ 500.00
Cecelia H. Levatino	\$ 500.00
Mimi Stewart	\$ 500.00
Carlos R. Cisneros	\$ 500.00
Dennis Roch	\$ 500.00
James Smith	\$ 500.00
John L. Zimmerman	\$ 500.00
Ron Griggs	\$ 500.00
Patrico Ruiloba	\$ 500.00
Miguel P. Garcia	\$ 500.00
Lorenzo Larranaga	\$ 500.00
Martin R. Zamora	\$ 300.00
Candie G. Sweetser	\$ 250.00
Ray Lara	\$ 250.00
Rachel A. Black	\$ 250.00
Brad Winter	\$ 250.00
Joanne Ferrary	\$ 100.00
<b>Elizabeth Thomson</b>	\$ 25.00
<b>Howie Morales</b>	\$ 25.00
<b>Grand Total</b>	<b>\$ 160,050.00</b>

Table 21: Candidates Receiving Tobacco Interest Contributions, 2017–2019

## IV. Recommendations

This report has documented the contributing power and the hold that lobbyists in four specific areas had on legislation during the 2019 session. It's not enough to simply describe the situation. What can be done to diminish the outsized influence of high-powered lobbyists like those described above and increase the power of the general public? Here are a few recommendations based on our research:

### A. Legislature

- **When a state representative or senator leaves the Legislature, require a two-year moratorium before that person may be compensated as a lobbyist.** A former lawmaker's knowledge of process and their relationships with former colleagues gives them an outsized influence at the State Capitol. This proposal would at least slow down the "revolving door" between legislative service and subsequent work as a lobbyist. (See HB 73 (2017), which passed the House 58–2 and received a Do Pass from the Senate Rules Committee and the Senate Judiciary Committee. Additionally, see SB 512 (2015) (Sen. Bill O'Neill), SB 210 (2013) (Sen. Bill O'Neill), SB 103 (2012) (Senator Dede Feldman), and SB 313 (2011) (Senator Dede Feldman)).
- **Prohibit lobbyists or lobbyist employers from making contributions to or expenditures on a member of the legislature from the start of the pre-filing period to the end of the legislative session. For the Governor, the prohibition should extend for January 1 to the end of the veto period.** (See HB 131 (2019), which passed the House 62–0.)
- **Require lobbyists to file information with the Secretary of State regarding which bills the lobbyist has worked on and whether they supported or opposed the bills.** (See HB 131 (2019).)
- **Establish criteria to ensure that standing committees, which meet during legislative sessions, have capable and professional analysts to support the committees.** Ensuring that committees are ably served by knowledgeable and professional staff may balance lawmakers' reliance on the counsel of lobbyists.
- **Appropriate \$50,000 to the Legislative Council Service (LCS) for the expense of providing meals for some committee meetings and House and Senate floor sessions when the press of legislative business requires the provision of meals.** A legislative day begins early and often runs late into the evening. When there is not time for a meal break, a lobbyist may volunteer or be asked to buy a meal for committee or floor members. At a minimum, this long-standing practice creates a public perception of a *quid pro quo*. That perception can be altered by providing the LCS with adequate funds to provide meals, when appropriate.
- **Require lobbyists to disclose how much compensation they receive for lobbying.** It has become increasingly difficult to "follow the money" spent to influence the political

process. This requirement would shine some light on how much money businesses are spending to get their priorities enacted into law. (HB 155, sponsored by then-Representative Jeff Steinborn, would have required lobbyists to disclose compensation. Although HB 155 eventually passed both chambers and was signed by the governor, the language regarding disclosure of compensation was removed from the bill by the House Regulatory and Public Affairs Committee.)

- **Ensure that the newly created state Ethics Commission has the staff and resources to investigate and enforce alleged violations of the NM Lobbyist Regulation Act.** The state Ethics Commission will request a supplemental appropriation for FY 2020 and has submitted a \$1.15 million budget request for FY 2021. It is imperative that the Legislature fully fund these requests as the Ethics Commission becomes fully operational on January 1, 2020.
- **Dedicate a revenue stream for needed improvements to the Secretary of State’s Campaign Finance Information System (CFIS).** The current system requires improvement, so that the public, researchers, journalists, and others can more easily access information included in lobbyist reports.
- **Require recusal by legislators when family members – especially spouses, sons, daughters, parents, and siblings – are lobbying on measures on which lobbyists must vote.**
- **Pay legislators a fair salary.** (See House Joint Resolution 5, sponsored by Reps. Angelica Rubio and Roberto “Bobby” Gonzales (2019).) Similar proposals to amend the New Mexico constitution to pay legislators a fair salary were introduced in 1990, 1992, 1993, 1994, and 1996. See “Piecemeal Amendment of the Constitution of New Mexico Since 1911,” New Mexico Legislative Council Service (December 2018).
- **Amend the Lobbyist Regulation Act to include definitions for “recipient” and “beneficiary,”** to ensure more accurate reporting from lobbyists.

## B. Secretary of State

- **Eliminate Reporting Errors in the Campaign Finance Information System (CFIS)**

### Example 1:

- The Secretary of State lists a report of \$13,000 in contributions in a list of Everytown’s reported transactions under business contributions.<sup>89</sup>
- Clicking on the link to that report leads to a listing of contributions stated to be for the election year 2018, yet contributions reported in 2016 are included in the list.<sup>90</sup>

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<sup>89</sup> <https://www.cfis.state.nm.us/media/ContributorMain.aspx>.

<sup>90</sup> <https://www.cfis.state.nm.us/media/ContributorsCDetails.aspx?cn=Everytown+for+Gun+Safety+AF&add=PO+BOX+4184&ct=New+York&st=NY&z=10163>. Also, the same list is listed multiple times: third from the bottom,

- The 2018 contributions alone total \$30,000, and the 2016 contributions listed total \$15,500, for a grand total of \$45,500 – not the \$13,000 listed in the link to the list.
- The list records a \$5,000 contribution to A Strong New Mexico on 9/30/16 and a \$5,500 contribution to A Strong New Mexico on 10/29/18.

**Example 2:**

- If one searches under the “Search by Lobbyists” tab in the CFIS for “All” Registration Years and “All” Report types, a table is displayed that lists \$752,280.60 in Total Contributions and \$511,901.95 in Total Expenditures for 2019.<sup>91</sup>
- If one searches under the same “Search by Lobbyists” tab for the 2019 Registration Year and “All” Report Types, the Total Contributions for 2019 are now listed as \$2,292,699.70 and the Total Expenditures as \$794,632.82.<sup>92</sup>

## V. Conclusion

Although there are several new, important players in the New Mexico Legislature – representing the film industry, gun control advocates, cannabis legalizers, and a subset of the tobacco industry (e-cigarettes and cigars) – these new players are largely playing by the old rules. They have hired some of the most powerful lobbyists in Santa Fe, poured money into campaigns, and wined and dined likely prospects. They have played the inside game, taking advantage of complex omnibus bills to conceal sweet deals, using opaque substitute bills, and collaborating with the governor to get what they wanted: tax breaks for the film industry and a lower tax rate for e-cigs and cigars.

Everytown for Gun Safety poured an enormous amount of money into New Mexico. Working with Moms Demand Action for Gun Sense, they increased the number of Democrats in the NM House and swept the background check bill to victory in cooperation with the House leadership. The NRA also acted strategically. Outspent in the Legislature and out-organized in the 2018 campaign, it regrouped with and provided supporting materials to conservative local sheriffs, encouraging them to oppose the background check bills and to then refuse to enforce the new law.

In this report, we’ve noted the trending use of PACs, often organized by legislative leaders and individual legislators as repositories for special-interest money, which is then doled out to candidates in swing districts. We’ve noted how this money can be easily hidden and lost track of.

We’ve detailed how drug policy advocates for marijuana and the budding marijuana industry coalesced to forge a powerful lobbying force. Contributions from this lobby continue to increase. Although cannabis lobbyists were not successful in legalizing recreational marijuana,

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with a total of \$13K; fifth from the bottom with an erroneous total of \$10.5K; and seventh from the bottom with an erroneous total of \$5.5K. Note also that the listing eighth from the bottom, reported as \$5.5K in contributions, leads to a listing of \$13.5K in contributions. Note also that the listing tenth from the bottom, reported as \$5.5K in contributions, leads to a listing of \$284K in contributions.

<sup>91</sup>See <https://www.cfis.state.nm.us/media/ReportLobbyistFilingPeriods.aspx>.

<sup>92</sup> See <https://www.cfis.state.nm.us/media/ReportLobbyists.aspx?el=2019&fn=&ln=&empName=&repType=%>  
 Note: Amounts reported are as of 1/12/20. These amounts may have changed as of 1/13/20, perhaps due to the filing of amended reports.

they made their cause more mainstream, with the governor creating an interim task force and Republicans coming on board for the first time with their own version of a legalization bill.

All of this – the monstrous spending by a special-interest group to turn the House into a body supportive of their position, the use and support of local actors to oppose legislation and to even oppose enacted law, the expert playing of the inside game – goes on in plain sight. (Well, at least as plain as can be determined from the data that lobbyists are required to report to the SOS’s Campaign Finance Information System!)

In an effort to reduce the outsized influence of lobbyists in New Mexico, NMEW seeks to pierce the veil of secrecy covering lobbyists’ activities. We offer recommendations for how to reform laws governing lobbying and lobbyists – but if New Mexico’s citizens really want greater transparency and accountability from lobbyists, it will take a culture change at the Roundhouse. Paying legislators fairly, professionalizing staff, and relieving lobbyists from having to pay for late-session, in-house meals, would all help to facilitate that culture change – a change that NMEW believes would be recognized and heralded by the public, business leaders, and those looking to invest in New Mexico and New Mexicans.

Let’s make that change together!

## VI. Appendix

### A. Prior Lobbying Reform Proposals and Dispositions (2015-2019)

#### 2019

**HB 4** (Daymon Ely/Daniel Ivey-Soto) creates a state ethics commission, which has jurisdiction to investigate and adjudicate civil complaints regarding alleged ethics violations, including alleged violations by lobbyists. (HB 4 passed the House 56-11. API in the Senate Rules Committee.)

**HB 131** (Liz Thomson, Jeff Steinborn and Dayan Hochman-Vigil) requires each lobbyist or lobbyist's employer to file an expenditure report with the secretary of state within 14 days after a legislative session ends. The report shall list the legislation on which the lobbyist or lobbyist's employer lobbied and whether the lobbyist or lobbyist's employer supported, opposed or took another position on each piece of legislation.

Additionally, HB 131 establishes a "prohibited period" during which a lobbyist or lobbyist's employer are restricted from participating in campaign activities or making political contributions. The prohibited period is defined in the bill and addresses time periods immediately before and after legislative sessions. (HB 131 passed the House 62-0, although the consensus view was that the House floor amendment that established the above-mentioned "prohibited period" was a poison pill provision. API in the Senate Rules Committee.)

**HB 140** (Liz Thomson and Jeff Steinborn) enacts a new section of the Lobbyist Regulation Act to require that estimated lobbying expense reports be filed by lobbyists' employers with the secretary of state. The legislation also requires the filing of actual lobbying expense reports for a preceding year. Lobbyist expense reports shall be posted on the secretary of state's lobbyist disclosure website for a period of at least ten years.

(It appears that HB 140 did not receive a committee hearing. API in the House State Government, Elections and Indian Affairs Committee.)

**HB 551** (Joy Garrett and Liz Thomson) enacts a new section of the Lobbyist Regulation Act to require that, every two years, lobbyists participate in sexual harassment prevention training and ethics training.

The training shall be at least four hours in length and may be sponsored by the secretary of state, the lobbyist's employer or a human resources professional. The legislation also provides that a person who alleges sexual harassment by a lobbyist may report the alleged behavior to the secretary of state. The secretary of state may conduct an investigation of the alleged behavior. (HB 551 passed the House 64-0. API while assigned to the Senate.)

**SB 191** (Daniel Ivey-Soto and Christine Chandler) makes changes to expense reporting requirements for lobbyists or lobbyists' employers. Reports shall now include the cumulative total of all individual expenditures of less than \$100.00 during the reporting period. The reported expense categories are: meals and beverages; other entertainment expenditures; and other expenditures. (**Chapter 35, Laws 2019**)

**SB 619** (Linda Lopez) creates a state ethics commission, which has jurisdiction to investigate and adjudicate civil complaints regarding alleged ethics violations, including alleged violations by lobbyists. (API in the Senate Rules Committee.)

**SB 668** (Mimi Stewart) enacts the State Ethics Commission Act. The state ethics commission has jurisdiction to investigate and adjudicate civil complaints regarding alleged ethics violations, including alleged violations by lobbyists. The legislation also provides for ethics training and the publication of advisory opinions. (**Chapter 86, Laws 2019**)

## **2018**

**HB 313** (Liz Thomson, Jim Dines and Angelica Rubio) requires annual lobbyist training to prevent sexual harassment. (API in the House Rules Committee.)

**SB 67** (Daniel Ivey-Soto and James E. Smith)) makes changes to expense reporting requirements for lobbyists. (**Vetoed**)

**SB 107** (Jeff Steinborn) requires each lobbyist or lobbyist's employer to file a post-session report listing the legislation worked on by the lobbyist or lobbyist's employer. (API in the Senate Rules Committee.)

**SB 173** enacts a new section of the Lobbyist Regulation Act to require that estimated lobbying expense reports be filed by lobbyists' employers with the secretary of state. (API in the Senate Rules Committee.)

## **2017**

**HB 10** (Damon Ely and Daniel Ivey-Soto) creates a state ethics commission. (API in the House Judiciary Committee.)

**HB 73** (Jim Dines, Joanne Ferrary and Nathan Small) creates a black-out period of two years before certain former public officials may receive compensation as a lobbyist. (Passed the House 58-2. API while assigned to the Senate.)

**HB 462** (Rod Montoya and Cathrynn Brown) creates a state ethics commission. (API in the House State Government, Elections and Indian Affairs Committee.)

**SB 72** (Daniel Ivey-Soto and Damon Ely) creates a state ethics commission. (API in the Senate Rules Committee.)

**SB 168** (Jeff Steinborn) increases the amount of the lobbyist registration and renewal fees. The bill also requires more information regarding the legislative or administrative issues for which a lobbyist is employed. (API in the Senate Rules Committee.)

**SB 218** (Linda Lopez and Patricia Roybal Caballero) creates a state ethics commission. (API in the Senate Rules Committee.)

**SB 225** (Jeff Steinborn) requires estimated lobbyist expense report filings with the secretary of state. (API in the Senate Rules Committee.)

**SB 393** (Daniel Ivey-Soto, James E. Smith, Jacob Candelaria and Jeff Steinborn) makes changes to expense reporting requirements for lobbyists or lobbyists' employers. Reports shall now include the cumulative total of all individual expenditures of less than \$100.00 during the reporting period. (Passed the Senate 30-9 and passed the House 62-0.) **(Vetoed)**

## **2016**

**HB 80** (Brian Egolf) creates a state ethics commission, which has jurisdiction to investigate and adjudicate civil complaints regarding alleged ethics violations, including alleged violations by lobbyists. (API in the House Rules Committee.)

**HB 105** (James E. Smith and Daniel Ivey-Soto) establishes requirements for the electronic reporting and public accessibility of reports of political contributions and lobbying expenditures. The bill also establishes a "campaign reporting system fund". Registration fees collected by the secretary of state from lobbyists and political committees shall be deposited in the fund. Money in the fund is non-reverting and shall be used to pay for upgrades, maintenance and operation of the secretary of states' electronic reporting system. **(Chapter 13, Laws 2016)**

**HB 135** (Jeff Steinborn) requires estimated lobbyist expense report filings with the secretary of state. (API in the House Rules Committee.)

**HB 136** (Jeff Steinborn) requires disclosure of information regarding the legislative or administrative issues for which a lobbyist is employed. (API in the House State Government, Elections and Indian Affairs Committee.)

**HB 137** (Jeff Steinborn) requires that a lobbyist's reporting of certain expenditures be listed separately by each recipient. (Passed the House 58-10. API in the Senate Rules Committee.)

**SB 124** (Linda Lopez) creates a state ethics commission. (API in the Senate Committees' Committee.)

## **2015**

**HB 115** (Brian Egolf) creates a state ethics commission. (API in the House Judiciary Committee.)

**HB 155** (Jeff Steinborn) increases the registration fee for each of a lobbyists' employers, extends the retention period for reports, and requires expenditure statements and expense reports to be posted on the secretary of states' website. **(Chapter 56, Laws 2015)**

**HB 241** (Jim Dines) creates a black-out period of two years before certain former public officials may receive compensation as a lobbyist. (Passed the House 57-10. API while assigned to the Senate Rules Committee.)

**HR 6** (Brian Egolf) proposes to amend the House rules to require the House chief clerk to maintain a registry of lobbyists, the legislation which each lobbyist is lobbying, and each lobbyist's employer. (API in the House Rules Committee.)

**SB 512** (Bill O'Neill) creates a black-out period of two years before certain former public officials may receive compensation as a lobbyist. (API in the Senate Rules Committee.)