

ETHICS REPORTER

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Out-Of-State Summer Conferences Must Be Reported If You Are Registered

Every summer, Kentucky legislators, legislative staff, lobbyists, and employers of lobbyists attend conferences conducted by the National Conference of State Legislatures (NCSL); the Southern Legislative Conference (SLC); and the American Legislative Exchange Council (ALEC).

The Kentucky Code of Legislative Ethics still applies to meetings outside the Commonwealth attended by members of the General Assembly in their official capacity, and to activities of employers and legislative agents at these events.

For example, if a lobbyist or employer provides food or beverages for individual legislators, family members or staff during any of the meetings, details of that spending must be reported.

No lobby spending reports were required to be filed in June. The next reports, due September 15, will include all lobbying expenditures from May 1 to August 31, and must include all expenditures made in conjunction with the legislative conferences held during the summer. This reporting period will be open for filing these reports on September 1, 2025.

Legislative conferences this summer include:

- **50th National Conference of State Legislatures** Legislative Summit -- August 4-6, 2025, Boston, Massachusetts at the Boston Convention and Exhibition Center.
- **79th Southern Legislative Conference** Annual Meeting -- July 19-23, 2025, Birmingham, Alabama at the Birmingham Jefferson Convention Center.
- **52nd American Legislative Exchange Council** Annual Meeting – July 16-18, 2025, Indianapolis, Indiana at the JW Marriott Indianapolis.

Newly-Registered and Terminated Lobbying Employers

The following businesses and organizations recently registered to lobby in Kentucky:
Action Now Initiative, LLC, Cornbread Hemp, Everent Health, Inc., Frankfort Plant Board, G20, Kooth USA LLC, KY Academy of Audiology, KY Datasam Initiative, Inc., KY Humane Society, One East Kentucky and Recovery Kentucky Housing Partnership

There were no new businesses or organizations that have recently terminated in Kentucky.

Commission Recommends Changes in Ethics Law

The Legislative Ethics Commission is recommending several changes in Kentucky's Code of Legislative Ethics, and has submitted its recommendations to the Legislative Research Commission.

Below are the Legislative Ethics Commission recommendations submitted to the LRC:

1. **Define and prohibit sexual harassment as ethical misconduct.**

Recommendation: Create a comprehensive ethical prohibition against sexual harassment by legislators and legislative agents against legislative branch employees, legislators, or legislative agents. This would include the following:

- Specifically define "sexual harassment" as actions that violate either Kentucky or federal statutes, regulations, or case law relating to protected classifications.
- Prohibit legislators and legislative agents from engaging in sexual harassment against an employee of the legislative branch, legislator, or legislative agent, and provide that a violation is ethical misconduct.

2. **Clarify that lobbyists will receive an electronic notification that they are registered, and the Commission shall list the lobbyist's name on the official lobbyist list upon registration.**

Recommendation: Codify that lobbyists receive an electronic notification that they are officially registered, and provide that the Commission shall list the lobbyist on the official registration list upon registration.

3. **Amend the regular session prohibition against campaign contributions from employers to clarify that the prohibition does not apply to campaign contributions from employers to sitting legislators who are running for statewide office.**

Recommendation: Amend the prohibition against employers of legislative agents making campaign contributions during a regular session of the General Assembly to clarify that the prohibition does not apply to campaign contributions to legislators who are running for statewide office.

Ethics & Lobbying News from around the U.S.

U.S. Supreme Court declines to hear GOP activist's lawsuit challenging Texas Ethics Commission's lobbying fine

By: Kate McGee – **MSN.COM** - June 2, 2025

The U.S. Supreme Court has declined to consider a lawsuit from conservative Texas activist Michael Quinn Sullivan against the Texas Ethics Commission, serving another blow to his more than decade-long challenge against the state agency that implements and enforces Texas' campaign finance and lobbying laws.

Since 2014, Sullivan, who used to lead a powerful conservative advocacy group called Empower Texans, has challenged an ethics commission decision to fine him \$10,000 for failing to register as a lobbyist in 2010 and 2011, repeatedly appealing his case before petitioning the nation's highest court earlier this year to consider it. Last year, the Texas Supreme Court declined his request to overrule two state appeals' court decisions refusing to toss out the fines.

Sullivan argued in a brief to the U.S. Supreme Court that Texas' ethics laws violate the First Amendment rights of "ordinary citizens," who are looking to speak to their elected representatives, with burdensome registrations and fees.

"States in some parts of the country are able to curtail the freedoms of speech, petition, and assembly by branding ordinary citizens 'lobbyists' and threatening them with severe financial penalties," Sullivan's lawyers wrote. "This Court's review is sorely needed to clarify the circumstances under which the government may require citizens to pay a fee and obtain a license to communicate with their government representatives. Unless and until this Court does so, States can continue—as Texas has done here—to use such requirements to harass or silence those whose speech is disfavored."

The Ethics Commission responded that Sullivan's actions went far beyond an "average citizen who happened to visit with a lawmaker or who spent a day or two at the Texas Capitol during a legislative session."

The Ethics Commission declined to comment.

In a statement, Sullivan's lawyer Tony McDonald said they were grateful for those who urged the Supreme Court to take the case, including Attorney General Ken Paxton and Texas Senators John Cornyn and Ted Cruz.

"More and more Texans are waking up to the threat posed by the Texas Ethics Commission to the fundamental freedoms enshrined in our constitution," McDonald said. "No Texans should ever be dragged behind closed doors to be investigated over their political speech."

The court's decision means the appeals court decision siding with the ethics commission stands. Sullivan will go back to a district court for a jury trial to determine how much he has to pay.

The ethics commission started investigating Sullivan after two former state lawmakers filed a complaint against him asserting that he had acted as an unregistered lobbyist. Sullivan has long contended that his activities with the now-defunct Empower Texans constituted journalism, not lobbying. But the ethics commission rejected that argument. In their 2014 ruling, they pointed to dozens of communications that he routinely sent to Republican lawmakers to discuss legislation and amendments, and encouraged them to vote in alignment with his organization's values.

Sullivan also published a Fiscal Responsibility Index ranking lawmakers' conservative bonafides based on their voting record each session. The commission found Sullivan used that scorecard to influence members' votes as part of his job for Empower Texans, another example of lobbying.

In court, Sullivan repeatedly tried to argue the ethics commission didn't have the constitutional authority to enforce the state's ethics laws. Initially, Sullivan was able to get the case tried in a Denton County district court instead of Travis County, claiming he moved there.

A judge there ruled in Sullivan's favor, but the ruling didn't stick because the case got sent back to Travis County after an appeals court ruled Sullivan didn't actually meet the residency requirements to have the case heard in Denton County from the start. The Travis County judge sided with the TEC, which Sullivan appealed and lost again. Meanwhile, Sullivan filed multiple other cases against the commission, all of which have been denied or dismissed in federal or state district court.

In recent months, Sullivan's bid to the nation's high court has drawn support from multiple high profile conservative officials and groups who wrote briefs in support of the activist, including the Cato Institute, the Manhattan Institute and Paxton. Cornyn and Cruz wrote a joint brief.

Paxton declined to have his office represent the ethics commission in the case, forcing the agency to hire outside counsel. Since 2014, the commission has put more than \$1 million in taxpayer dollars toward outside legal help. In his brief, Paxton backed Sullivan's argument that Texas' lobby laws violate his first amendment rights.

"It is antithetical to the First Amendment that a private citizen working for a nonprofit organization dedicated to fiscal responsibility that does not provide gifts to lawmakers nonetheless must register with the government, make disclosures to the government, and even pay a fee to the government to simply email elected officials about matters of significant public concern," Paxton wrote.

Cruz and Cornyn did not take a position on the fines imposed on Sullivan, but instead argued that the courts have not set a solid precedent about how courts should review lobbying statutes against free speech concerns.

"Applying the appropriate tier of scrutiny when evaluating lobbyist disclosure requirements is crucial to ensuring protected political speech is not unlawfully restricted or silenced," they wrote.

In their response to the petition, the ethics commission said many of the authors of these friend-of-the-court briefs, including ones written by Paxton, and Cruz and Cornyn, "appear to assume, without any real analysis of the record — that Sullivan did nothing more than write a newsletter and work on a website that 'rated' legislators. Such characterizations belie the actual record that led to a Texas court granting summary judgments in the Commission's favor on the merits of the claims that Sullivan violated Texas law."

Ethics Commission Sues Group for More Information About Lobbyist Advertising

By: Marjorie Childress - **NEW MEXICO IN DEPTH** - June 17, 2025

The State Ethics Commission is alleging in a lawsuit filed last week that a nonprofit organization failed to disclose tens of thousands of advertising dollars in 2024 to influence lawmakers on medical malpractice reform.

The dispute demonstrates how the statute requires more or less information depending on which reports groups are required to file. Should the commission win in court, the group will have to disclose not only how much it spent, but who paid for an advertising campaign it conducted in 2024.

The ethics commission alleges the group, at that time called “Fairness For New Mexico Patients,” spent \$56,000 on at least four full-color ads in newspapers in October and, over the last six months of 2024, digital advertising on Facebook and Instagram. All the ads referred the public to the group’s website, which the complaint says included a “call to action” for the 2025 legislative session and “take action” pages that allowed viewers to “tell [their] legislators about safety over profit.”

A review of the ads online by New Mexico In Depth shows they urged the public to “say no” to malpractice law changes, or directly urged lawmakers to “stand with New Mexico patients,” or to learn more at the group’s website.

A web archive isn’t comprehensive but shows in December the organization’s website contained a form that members of the public could use to communicate with lawmakers. It was next to a petition that included language saying corporations should compensate patients for medical malpractice.

But the group didn’t register a lobbying advertising campaign with the Secretary of State’s office in the fall of 2024, and didn’t disclose its contributors or expenditures 15 days after the session was over, as is required by state law, according to the ethics commission.

“New Mexicans have a right to know who is funding lobbying campaigns so that both New Mexicans and their elected representatives can better evaluate the messages of those lobbying campaigns...,” Jeremy Farris, Executive Director of the State Ethics Commission, said in a press release. “...This lawsuit is about ensuring that all organizations advocating for legislative change follow the same legal standard.”

According to business registration filings with the New Mexico Secretary of State, the group changed its name last October to “New Mexico Safety Over Profit.” That is the name the ethics commission used in its complaint, as well as “NMSOP” for shorthand.

The group is a 501c4 nonprofit organization that under federal tax rules is not required to report its donors. It hasn’t disclosed them in federal tax returns, and told reporter Ed Williams of Searchlight New Mexico earlier this year that it would not disclose its donors. Referencing that statement in its complaint, the ethics commission made a point that the group’s federal tax status had “no bearing on NMSOP’s disclosure obligations under New Mexico law.”

Groups that spend money on elections or lobbying without disclosing their donors for that work are often referred to as “dark money” groups, because the public doesn’t have information about the special interests paying the groups.

A review by New Mexico In Depth of the group's federal tax filing for the year ending December 2023 shows it raised \$334,000 in contributions, but it doesn't list its donors. But the 990s of another organization, New Mexico Trial Lawyers Association, Inc., shed some light. They show a contribution of \$95,000 to the group in 2023, and a contribution of \$50,000 in 2022. Whether or not that money was used for the 2024 advertising campaign is unknown.

New Mexico Safety Over Profit is defending itself, saying it filed the appropriate report.

"The plain language of the LRA requires an organization to register and report a lobbying advertising campaign only when "not otherwise reported under the Lobbyist Regulation Act." NMSA § 2-11-6(I). In this case, NMSOP reported its expenditures as a lobbyist employer," the group's attorney, Sara Berger, wrote in a letter in May to the ethics commission that is included as an attachment in the ethics complaint.

Berger was referring to the state's statute, the Lobbyist Regulation Act, or LRA, which lays out what lobbyists, their employers, and groups who pay for advertising that urges the public to lobby lawmakers must report to the secretary of state's office.

State law requires lobbyist employers to file reports in January, May and October of each year.

Berger interprets the LRA as requiring lobbyist employers to only report expenses and who gave money for political contributions. "The only contributors on the lobbyist employer report are contributions to political candidates," she said.

Under this interpretation of the law, New Mexico Safety Over Profit would not have to disclose where they got the money for the advertising campaign, unlike had they filed an advertising campaign report.

One paragraph in the LRA holds special provisions that compel reporting about the source of money for advertising. It instructs any group spending more than \$2,500 on lobbying advertising in a calendar year "*not otherwise reported under the Lobbyist Regulation Act*" to register the campaign with the Secretary of State as soon as that \$2,500 threshold is reached. Then, within 15 days of the end of the next legislative session, the group must file a report listing its expenditures and who gave it money for the advertising campaign.

Berger contends that the group was registered as a lobbyist employer, and therefore only had to file reports due from lobbyist employers. Under the LRA, these would include the three reports due during the year, and special supplemental reports for large sums spent during the legislative session.

Because the group filed a supplemental employer report in January just after the legislative session kicked off, it wasn't required to file the more detailed advertising report, Berger said. "If you've reported as the employer, you're done, and you do the employer reporting," Berger said in an interview. "And if you don't, then you have to register and report as a lobbying advertising campaign."

The ethics commission doesn't agree.

"Registering as a lobbyist employer and registering a lobbying advertising campaign are not mutually exclusive," Amelia Bierle, deputy director of the commission, wrote in an email. "There are many organizations that file both types of registrations under the Lobbyist Regulation Act."

In its complaint, the ethics commission alleged the group's January report was for money spent for upcoming advertising during the legislative session, rather than after-the-fact reporting of expenses related to the 2024 advertising. The complaint then listed a series of paid social media advertising spots by the group on Facebook and Instagram that began on the same day that the supplemental January report was filed.

"Therefore, those expenditures have not otherwise been reported and should have triggered the additional reporting requirements," Bierle wrote about the 2024 advertising expenses.

New Mexico In Depth reviewed the group's filings as a lobbyist employer in the Secretary of State's searchable online portal. The group didn't file any of its regular lobbyist employer reports. One was due in October after the advertising began. Another was due in January several weeks before the supplemental report it filed. And another was due last month. Nor did it file statements saying it had no activity, the Secretary of State confirmed.

However, under the law, a lobbyist can file reports that stand in for their employer's reports. The group's registered lobbyist, Stephanie Maez, filed reports showing no money spent on lobbying, which makes the organization up-to-date on the number of regular reports they must file, according to the Secretary of State's office. But that compliance doesn't answer the underlying question posed by the ethics complaint, which is whether the group should have filed a lobbyist advertising campaign disclosure report.

Berger said the group filed the expenses on the supplemental report in January instead of in 2024 because, "they paid the bill when the bill came."

Lipshutz didn't answer whether the ethics commission accurately summarized the advertising by the group last fall and during the legislative session this year.

"We have fully complied with all Secretary of State filing requirements and are fully compliant," Lipshutz said in a text message.

Clarification: This story was updated to reflect that while the group did not file lobbyist employer reports in October, January and May, its lobbyist did file statements of no activity with the Secretary of State, which according to Secretary of State staff makes the group compliant with their reporting requirements. This compliance does not answer the underlying question of whether or not the group should have filed a lobbyist advertising campaign disclosure report, as the State Ethics Commission contends.