



Testimony to New York State Commission on Ethics and Lobbying in Government (COELIG)

Re: Restoring Public Trust Requires Bigger, Bolder COELIG

November 13, 2024

Good afternoon, members and staff of the Commission on Ethics and Lobbying in Government (COELIG). My name is Rachael Fauss, the Senior Policy Advisor for Reinvent Albany. We advocate for a more transparent and accountable New York government.

First, thank you for holding this hearing, as required by law. We support many of the administrative changes made since your last hearing to improve ethics and lobbying oversight, and appreciate you sharing your [draft legislative agenda](#) for comment.

Unfortunately, the progress made by COELIG has been undermined by former Governor Cuomo's lawsuit challenging its constitutionality. Ironically, we opposed COELIG's initial creation because we believed it was not independent enough to reign in unethical governors. That said, we are firmly convinced COELIG is constitutional and [filed an amicus brief](#) to that effect with other watchdogs to the Court of Appeals.

We believe the lower court's position that the NYS constitution requires oversight bodies be controlled by the governor is dangerous, illogical, and ahistorical. Essentially, the lower court interprets the state constitution as creating a governor who is an elected monarch who can break laws with impunity, checked only by the unlikely threat of impeachment – a power that has only been used once in over two centuries.

COELIG's legislative agenda includes a number of good proposals that would improve ethics and lobbying oversight. However, we once again urge you to aim much higher. Public [trust and confidence in New York government](#) has been badly eroded by an endless series of ethics, sexual harassment, and corruption scandals. COELIG has to be bold or it will fail to restore public trust.

Reinvent Albany's testimony makes recommendations in three areas:

- **Regulatory and administrative changes**, including actions to date and the need for transparency of the content of informal advisory opinions rendered to state officials;
- **Legislative changes** to improve the transparency of lobbying and financial disclosures, strengthen the code of ethics, amend the Open Meetings Law, and establish an independent budget for COELIG; and
- **Increasing the Commission’s budget**, and conducting an independent review of IT and staffing needs.

Regulatory/Administrative Changes

Since the last hearing, COELIG has made a number of administrative changes we recommended in our [March 2023 testimony](#), including:

- [Publishing open data](#) for lobbying reports. COELIG’s predecessor JCOPE had stopped publishing lobbying data in an open data format.
- [Requiring commissioners to approve guidances for statewide electeds](#), agencies, or authority heads.
- [Barring communication with appointing authorities](#) on commission matters, and requiring communications from appointing authorities be shared with all COELIG members.

We also support the Commission’s intention to publish a formal advisory opinion on how COELIG can respond when public officials make misstatements about guidance they have received, which is noted in your [2025 draft legislative agenda](#). This is a step forward, though we strongly prefer a law requiring informal advisory opinions to senior officials be published so there is no doubt about what is permitted.

Recommended Changes to NY’s Lobbying, Ethics, and Election Laws

While COELIG has drafted a number of worthwhile legislative proposals, we encourage you to get behind some bills already introduced by the Legislature, including those listed below.

Article 1-a of the Legislative Law – Lobbying

- 1. Reporting of position on lobby reports** – We again urge COELIG to support legislation making lobbying reporting more specific, including whether lobbying activity supports or opposes a bill, budget measure, or other government action. In your [draft 2025 legislative agenda](#), you deferred consideration until the Commission had more information about how this works in other states. To help this along, we have compiled information about other representative states.
 - **Idaho** requires reporting of information about the items within appropriation bills being lobbied on. (See their [Lobbyist Manual](#) and [Chapter 66 of Title 67 of the Idaho Statutes](#)).

- **Montana** requires reporting of whether the lobbying activity was in support, opposition, or modification of official actions. (See [44.12.102 of the Administrative Rules of Montana](#) regarding reportable activities and Montana’s [Registry of Lobbying Activities](#), selecting “View All Lobbyists”)
- **Colorado** requires reporting of whether such lobbyist clients are supporting, opposing, amending, or monitoring the legislation. (See [Part 3 of Colorado’s “Sunshine Law”](#) as well as the Colorado [Online Lobbyist Search portal](#).)
- **Nebraska** requires lobbyists to show on their statement of activity support or opposition to legislation (See [Chapter 6, Rules and Regulations for Lobbying](#) of Title 4, Nebraska Accountability and Disclosure Commission and the [Nebraska State Legislature’s Website](#)).
- **Wisconsin** allows lobbyists the option to report their position on legislation, and also upload “supporting documentation” such as memos of support. (See their [Lobbying Users Guide](#) and [lobbying portal](#).)

Reinvent Albany recommends the following based on other states’ best practices on disclosing lobbying pro/con positions:

- A. Use these categories for simplicity and clarity:** “Support,” “support with proposed amendments,” “oppose,” and “oppose absent proposed amendments.”
- B. Do NOT use:** “neutral,” “monitoring,” or “no position.” We note that simply keeping an eye on a bill is not lobbying or a reportable activity. See the Appendix for our draft bill language; we welcome COELIG’s thoughts about this proposal.

- 2. Consider requiring lobbyists and/or lobbying clients¹ to report payments made to community groups in an attempt to influence that group’s position on a government action** – An emerging issue that has been [covered by The City](#) are payments being made by casino lobbyists to local community groups who would otherwise be speaking out against casinos at public hearings, with the media, or to local elected officials. We understand that this activity fits in the gray area of lobbying because the groups and individuals being paid may not be engaging in direct lobbying. We ask COELIG to consider what new reporting might be appropriate in this area, or to clarify what is already required to be reported, but not commonly understood to be reportable expenses or activity.

¹ Another take is that the lobbying clients – in this case casino investors – making the payments are engaged in grassroots lobbying and should be required to register as lobbyists. Either way, we are flagging this as an emerging problem.

3. **Disclose lobbying on nominations** – We [support S7883 \(Gianaris\) / A8618 \(McDonald\)](#), which would require reporting of lobbying on nominations subject to Senate confirmation. The bill was amended in 2024 to no longer be retroactive following a veto from Governor Hochul in 2023.
4. **Require lobbyists to report political contributions and fundraising activity (NYC model)** – We appreciate that COELIG considered [S2130 \(Krueger\) / A1391 \(Aubry\)](#) and its importance for transparency, though you deferred the item on your draft legislative agenda. We would note that one aspect of the NYS campaign finance system has dramatically changed since we initially recommended this proposal: Starting in 2024, lobbyists’ contributions are not eligible under the new public matching system. Because of this new requirement, we believe lobbyists’ contributions should be subject to greater transparency.
5. **Lessening the filing burden for smaller filers** – Lastly, we continue to support permitting filers who spend between \$5-10K on lobbying each year to report only semi-annually, rather than bimonthly (authorized in NYC, but not currently in place under the City Clerk). This would ease the administrative burdens for both small filers and COELIG.

Section 73-A of the Public Officers Law – Financial Disclosure Statements

We appreciate COELIG’s support for posting the financial disclosure statements of candidates for office, as well as electronic filing of all disclosure statements. We have issued [memos of support](#) for COELIG’s bills to require electronic filing, and support additional bills to improve public access to disclosure statements:

1. [A1560 \(McDonald\) / S3544 \(Breslin\)](#) - Requires electronic filing of disclosure statements for legislators and legislative candidates
2. [A1609 \(McDonald\) / S2833 \(Breslin\)](#) - Requires legislators and candidates for legislature to post financial disclosures statements on campaign websites
3. [A2507 \(Paulin\) / S3574 \(Skoufis\)](#) - Requires disclosure statements from candidates for statewide office or the legislature be posted on COELIG’s website
4. [S3507 \(Skoufis\)](#) - Requires members of REDCs to file disclosure statements
5. [S1883 \(Skoufis\)](#) - Requires members of REDCs to file disclosure statements, and subjects them to Freedom of Information and Open Meetings Laws.

Section 74 of the Public Officers Law – The NYS Code of Ethics

We appreciate that COELIG has continued to propose bills related to accessorial liability, as well as adding penalties to more sections of the NYS Code of Ethics. We are glad to see COELIG supports adding sexual harassment to the NYS Code of Ethics. However, we ask COELIG to support [S7137-A/A9279](#) because it includes both sexual harassment and discrimination as ethics violations and is already supported by legislators and advocates.

1. [S7137-A \(Gounardes\) / A9279 \(Kelles\)](#) - **Amends the NYS Code of Ethics to explicitly prohibit harassment and discrimination.** This is the approach taken in the rules of ethics for lawyers, which makes discriminatory conduct a ground for disbarment. The legislation also requires those in supervisory positions to take action against acts of discrimination and harassment. We understand that inclusion of discrimination may drive more complaints to COELIG (sexual harassment has already been established as an ethical violation/abuse of power in prior enforcement actions), and accordingly support increased resources for COELIG.

Open Meetings Law

We agree with COELIG that the current Open Meetings Law provisions for remote participation can make it difficult for public officials to participate in meetings because a quorum of members must be present in a publicly accessible, physical location.

That’s why we and 30 other groups [support](#) legislation that would change the quorum threshold for *all* non-elected public bodies – for all meetings, not just committee meetings: [A10266 \(Simone\)](#) / (Pending Senate introduction by Senator May). This bill would require that the presiding officer – or another designated member – be present in a physical location, while allowing other members of the body to participate remotely.

COELIG’s proposal would set a standard that is different for “committee meetings of advisory-only bodies” rather than all boards and commissions. While we share the goal of making it easier for public officials to participate remotely in meetings, we strongly prefer to have the same rules for advisory bodies given the important role they play in the deliberative process for setting state policy.

Commission Budget

Lastly, we continue to support independent budgeting for all enforcement bodies. There are a number of models, including one used for the New York City Independent Budget Office which pegs its budget to the Office of Management and Budget. Your colleagues at the NYC Conflicts of Interest Board have [long proposed](#) their own independent budgeting process. We encourage COELIG to draft its own proposal.

We have pushed the Commission to do more investigations, increase outreach to state employees, and build a culture of state employees actively reporting misconduct. We know this takes sustained funding and adequate staffing. COELIG is currently funded at \$8,066,000 for FY 2025 – allowing 68 full-time equivalent staff members – past budget increases have been modest given its expanded training mandate.

We think COELIG needs substantially more funding from the Governor and the Legislature to fulfill its expansive mission, which includes managing enormous lobbying and financial disclosure processes, ruling on complex policy issues, and enforcing ethics laws and regulations.

We also note that the uncertainty created by former Governor Cuomo's lawsuit is severely affecting the ability of COELIG to move investigations forward and seek justice for victims of abuse of power, as well as hire staff, who understandably want the certainty of knowing that their agency will still exist in a few months. Given this challenge, we continue to support [an independent evaluation of the technological, staffing and other funding needs of COELIG](#). This evaluation could be conducted by a management consultant. The NYS Department of Motor Vehicles did something similar when they had a management and information technology (IT) consultant redesign their workflow and internal and public-facing IT.

Thank you for your consideration.

Appendix: Proposed Legislation on Reporting of Position Taken in Lobbying Activity

Section 1. Section 1-h of Article I-A of the Legislative Law is amended as follows:

§ 1-h. Bi-monthly reports of certain lobbyists. (a) Any lobbyist required to file a statement of registration pursuant to section one-e of this article who in any lobbying year reasonably anticipates that during the year such lobbyist will expend, incur or receive combined reportable compensation and expenses in an amount in excess of five thousand dollars, as provided in paragraph five of subdivision (b) of this section, for the purpose of lobbying, shall file with the commission a bi-monthly written report, on forms supplied by the commission, by the fifteenth day next succeeding the end of the reporting period in which the lobbyist was first required to file a statement of registration. Such reporting periods shall be the period of January first to the last day of February, March first to April thirtieth, May first to June thirtieth, July first to August thirty-first, September first to October thirty-first and November first to December thirty-first.

(b) Such bi-monthly report shall contain:

(1) the name, complete address including apartment or suite number, if any, and telephone number of the lobbyist;

(2) the name, complete address including apartment or suite number, if any, and telephone number of the client by whom or on whose behalf the lobbyist is retained, employed or designated;

(3) the following information on which the lobbyist has lobbied: (i) a description of the general subject or subjects, (ii) the legislative bill numbers of any bills and, regarding an appropriation bill or any supplemental appropriation bill, the particular items within the appropriation bill lobbied on, (iii) the numbers or subject matter (if there are no numbers) of gubernatorial executive orders or executive orders issued by the chief executive officer of a municipality, (iv) the subject matter of and tribes involved in tribal-state compacts, memoranda of understanding, or any other state-tribal agreements and any state actions related to class III gaming as provided in 25 U.S.C. § 2701, (v) the rule, regulation, and ratemaking or municipal ordinance or resolution numbers of any rules, regulations, or rates or ordinance or proposed rules, regulations, or rates or municipal ordinances or resolutions, and (vi) the titles and any identifying numbers of any procurement contracts and other documents disseminated by a state agency, either house of the state legislature, the unified court system, municipal agency or local legislative body in connection with a governmental procurement;

(4) for each item listed with regard to paragraphs (i), (iii), (vii) and (ix) of section 1-c(c) of this law, whether the lobbying was in support, in support with proposed

amendments, in opposition, or in opposition absent proposed amendments to the item lobbied on;

(5) for each item listed with regard to paragraphs (ii) and (viii) of section 1-c(c) of this law, whether the lobbying was with regard to the adoption, issuance, rescission, modification or terms of a gubernatorial or local executive order;

(6) for each item listed with regard to paragraphs (vi) of section 1-c(c) of this law, whether the lobbying was with regard to the approval, disapproval, implementation or administration of tribal-state compacts, memoranda of understanding or any other tribal-state agreements and any other state actions related to Class III gaming;

(7)[(4)] the name of the person, organization, or legislative body before which the lobbyist has lobbied;

(8)[(5)] (i) the compensation paid or owed to the lobbyist, and any expenses expended, received or incurred by the lobbyist for the purpose of lobbying.

(ii) expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate if seventy-five dollars or less and if more than seventy-five dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expense is more than seventy-five dollars on behalf of any one person, the name of such person shall be listed.

(iii) for the purposes of this paragraph, expenses shall not include:

(A) personal sustenance, lodging and travel disbursements of such lobbyist;

(B) expenses, not in excess of five hundred dollars in any one calendar year, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.

(iv) expenses paid or incurred for salaries other than that of the lobbyist shall be listed in the aggregate.

(v) expenses of more than fifty dollars shall be paid by check or substantiated by receipts and such checks and receipts shall be kept on file by the lobbyist for a period of three years.

§ 2. Section 1-j of Article I-A of the Legislative Law is amended as follows:

§ 1-j. Semi-annual reports. (a) Semi-annual reports shall be filed by any client retaining, employing or designating a lobbyist or lobbyists, whether or not any such lobbyist was

required to file a bi-monthly report, if such client reasonably anticipates that during the year such client will expend or incur an amount in excess of five thousand dollars of combined reportable compensation and expenses, as provided in paragraph five of subdivision (c) of this section, for the purposes of lobbying.

(b) Such report shall be filed with the commission, on forms supplied by the commission, by the fifteenth day of July of the year and by the fifteenth day of January next following the year for which such report is made and shall contain:

(1) the name, complete address including apartment or suite number, if any, and telephone number of the client;

(2) the name, complete address including apartment or suite number, if any, and telephone number of each lobbyist retained, employed or designated by such client;

(3) the following information on which each lobbyist retained, employed or designated by such client has lobbied, and on which such client has lobbied: (i) a description of the general subject or subjects, (ii) the legislative bill numbers of any bills and, regarding an appropriation bill or any supplemental appropriation bill, the particular items within the appropriation bill lobbied on, (iii) the numbers or subject matter (if there are no numbers) of gubernatorial executive orders or executive orders issued by the chief executive officer of a municipality, (iv) the subject matter of and tribes involved in tribal-state compacts, memoranda of understanding, or any other state-tribal agreements and any state actions related to class III gaming as provided in 25 U.S.C. 2701, (v) the rule, regulation, and ratemaking or municipal resolution or ordinance numbers of any rules, regulations, or rates, or municipal resolutions or ordinances or proposed rules, regulations, or rates, or municipal ordinances or resolutions and (vi) the titles and any identifying numbers of any procurement contracts and other documents disseminated by a state agency, either house of the state legislature, the unified court system, municipal agency or local legislative body in connection with a governmental procurement;

(4) for each item listed with regard to paragraphs (i), (iii), (vii) and (ix) of section 1-c(c) of this law, whether the lobbying was in support, in support with proposed amendments, in opposition, or in opposition absent proposed amendments to the item lobbied on;

(5) for each item listed with regard to paragraphs (ii) and (viii) of section 1-c(c) of this law, whether the lobbying was with regard to the adoption, issuance, rescission, modification or terms of a gubernatorial or local executive order;

(6) for each item listed with regard to paragraphs (vi) of section 1-c(c) of this law, whether the lobbying was with regard to the approval, disapproval, implementation or administration of tribal-state compacts, memoranda of understanding or any other tribal-state agreements and any other state actions related to Class III gaming;

(7)[(4)] the name of the person, organization, or legislative body before which such client has lobbied;

(8)[(5)] (i) the compensation paid or owed to each such lobbyist, and any other expenses paid or incurred by such client for the purpose of lobbying.

(ii) any expenses required to be reported pursuant to subparagraph (i) of this paragraph shall be listed in the aggregate if seventy-five dollars or less and if more than seventy-five dollars such expenses shall be detailed as to amount, to whom paid, and for what purpose; and where such expenses are more than seventy-five dollars on behalf of any one person, the name of such person shall be listed.

(iii) for the purposes of this paragraph, expenses shall not include:

(A) personal sustenance, lodging and travel disbursements of such lobbyist and client;

(B) expenses, not in excess of five hundred dollars, directly incurred for the printing or other means of reproduction or mailing of letters, memoranda or other written communications.

(iv) expenses paid or incurred for salaries other than that of the lobbyist shall be listed in the aggregate.

(v) expenses of more than fifty dollars must be paid by check or substantiated by receipts and such checks and receipts shall be kept on file by such client for a period of three years.

(9)[(6)] (i) the name and public office address of any statewide elected official, state officer or employee, member of the legislature or legislative employee and entity with whom the client of a lobbyist has a reportable business relationship;

(ii) a description of the general subject or subjects of the transactions between the client of a lobbyist and the statewide elected official, state officer or employee, member of the legislature or legislative employee and entity; and

(iii) the compensation, including expenses, to be paid and paid by virtue of the business relationship.

§ 3. This act shall take effect in six months.

Sponsors Memo

BILL NUMBER: TBD

SPONSOR: TBD

TITLE OF BILL: And act to amend the legislative law, in relation to requiring additional information in reporting of lobbying activities

PURPOSE OR GENERAL IDEA OF BILL: To provide more meaningful information to the public about lobbying activities reported in current disclosures, including whether the activity is in support or opposition to a governmental action.

SUMMARY OF PROVISIONS:

Section 1 amends section 1-h of Article 1-A of the legislative law to require bi-monthly lobby reports include the following additional information:

- complete address information of lobbyists and clients;
- items within appropriation bills being lobbied on;
- for lobbying activity on state or local legislation or rules having the force of law, whether the lobbying was in support, in support with proposed amendments, in opposition, or in opposition with proposed amendments;
- for lobbying activity on state or local executive orders, whether the lobbying was with regard to the adoption, issuance, rescission, modification, or terms of an executive order; and
- For lobbying activity on tribal-state compacts, memoranda of understanding or any other tribal-state agreements and other state actions related to Class III gaming, whether the activity was with regard to approval, disapproval, implementation or administration.

Section 2 amends section 1-J of Article 1-A of the legislative law to require reporting of the same additional information in semi-annual reports as newly required for bi-monthly reports.

JUSTIFICATION: Lobbying disclosures filed by lobbyists currently only provided a limited view into the activity of lobbyists seeking to influence governmental action. While the disclosures are available via an online database maintained by the Commission on Ethics and Lobbying in Government (COELIG), and are also published as open data, the public does not know, just by viewing the data, what the ultimate goal of the lobbyist is, and often must view news reports to find out. This legislation would enable the public to answer the basic question of whether a lobbyist is supporting or opposing state legislation, and what outcome they are seeking for other governmental actions.

A number of other states currently provide additional information to the public about lobbying activities:

- **Idaho** requires reporting of information about the items within appropriation bills being lobbied on. (See their [Lobbyist Manual](#) and [Chapter 66 of Title 67 of the Idaho Statutes](#)).

- **Montana** requires reporting of whether the lobbying activity was in support, opposition, or modification of official actions. (See [44.12.102 of the Administrative Rules of Montana](#) regarding reportable activities and Montana’s [Registry of Lobbying Activities](#))
- **Colorado** requires reporting of whether such lobbyist clients are supporting, opposing, amending, or monitoring the legislation. (See [Part 3 of Colorado’s “Sunshine Law”](#) as well as the Colorado [Online Lobbyist Search portal](#).)
- **Nebraska** requires lobbyists to show on their statement of activity support or opposition to legislation (See [Chapter 6, Rules and Regulations for Lobbying](#) of Title 4, Nebraska Accountability and Disclosure Commission and the [Nebraska State Legislature’s Website](#)).
- **Wisconsin’s** lobbying database allows lobbyists the option to report their position on legislation, and also upload “supporting documentation” such as memos of support. (See [Wisconsin’s Lobbying Users Guide](#) and their [lobbying portal](#).)

PRIOR LEGISLATIVE HISTORY: None

FISCAL IMPLICATIONS: Minimal new regulatory costs for COELIG implementation and education.

EFFECTIVE DATE: 6 months.