

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 118

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

AN ACT

RELATING TO ELECTIONS; PROHIBITING CERTAIN CONTRIBUTIONS BY
LOBBYISTS, PROSPECTIVE STATE CONTRACTORS, THE PRINCIPALS OF
PROSPECTIVE STATE CONTRACTORS, STATE CONTRACTORS AND THE
PRINCIPALS OF STATE CONTRACTORS; PROHIBITING THE BUNDLING OF
CERTAIN CONTRIBUTIONS; RECONCILING MULTIPLE AMENDMENTS TO THE
SAME SECTION OF LAW IN LAWS 2009 BY REPEALING LAWS 2009,
CHAPTER 68, SECTION 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Campaign Reporting Act is
enacted to read:

"[NEW MATERIAL] LOBBYISTS--CONTRIBUTIONS FOR CANDIDATES
AND CAMPAIGN COMMITTEES PROHIBITED.--

A. A lobbyist shall not make a contribution to a
candidate for nomination or election to a state public office,

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underscoring material = new
[bracketed material] = delete

1 a campaign committee of a candidate for state public office or
2 a state- or county-level political party committee.

3 B. The provisions of this section shall not:

4 (1) restrict a lobbyist from establishing a
5 campaign committee for the lobbyist's own campaign or from
6 soliciting contributions for that campaign from persons not
7 prohibited from making contributions pursuant to this section;
8 or

9 (2) preclude a lobbyist's employer from making
10 contributions to a candidate or expenditures for the benefit of
11 a candidate."

12 Section 2. A new section of the Campaign Reporting Act is
13 enacted to read:

14 "[NEW MATERIAL] PROSPECTIVE STATE CONTRACTORS AND STATE
15 CONTRACTORS--CONTRIBUTIONS FOR CANDIDATES AND CAMPAIGN
16 COMMITTEES PROHIBITED.--

17 A. A principal of a state contractor or principal
18 of a prospective state contractor shall not make a contribution
19 to or solicit contributions on behalf of a candidate for
20 nomination or election to a state public office, a campaign
21 committee of a candidate for state public office or a state- or
22 county-level political party committee.

23 B. The provisions of this section shall not
24 restrict a principal of a state contractor or principal of a
25 prospective state contractor from establishing a campaign

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1 committee for the principal's own campaign or from soliciting
 2 contributions for that campaign from persons not prohibited
 3 from making contributions by this section.

4 C. The provisions of this section supplement and do
 5 not limit the provisions of other statutes or agency rules that
 6 may further limit contributions from the principals of a
 7 prospective state contractor or the principals of a state
 8 contractor."

9 Section 3. A new section of the Campaign Reporting Act is
 10 enacted to read:

11 "[NEW MATERIAL] BUNDLING OF CONTRIBUTIONS.--A person
 12 prohibited from contributing to a candidate for state public
 13 office by the Campaign Reporting Act shall not collect and
 14 deliver to the recipient contributions from other contributors
 15 that the person is prohibited from making on the person's own
 16 behalf."

17 Section 4. Section 1-19-26 NMSA 1978 (being Laws 1979,
 18 Chapter 360, Section 2, as amended) is amended to read:

19 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
 20 Act:

21 A. "advertising campaign" means an advertisement or
 22 series of advertisements used for a political purpose and
 23 disseminated to the public either in print, by radio or
 24 television broadcast or by any other electronic means,
 25 including telephonic communications, and may include direct or

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1 bulk mailings of printed materials;

2 B. "anonymous contribution" means a contribution
3 the contributor of which is unknown to the candidate or the
4 candidate's agent or the political committee or its agent who
5 accepts the contribution;

6 C. "bank account" means an account in a financial
7 institution located in New Mexico;

8 D. "campaign committee" means two or more persons
9 authorized by a candidate to raise, collect or expend
10 contributions on the candidate's behalf for the purpose of
11 electing the candidate to office;

12 E. "candidate" means an individual who seeks or
13 considers an office in an election covered by the Campaign
14 Reporting Act, including a public official, who either has
15 filed a declaration of candidacy or nominating petition or:

16 (1) for a non-statewide office, has received
17 contributions or made expenditures of one thousand dollars
18 (\$1,000) or more or authorized another person or campaign
19 committee to receive contributions or make expenditures of one
20 thousand dollars (\$1,000) or more for the purpose of seeking
21 election to the office; or

22 (2) for a statewide office, has received
23 contributions or made expenditures of two thousand five hundred
24 dollars (\$2,500) or more or authorized another person or
25 campaign committee to receive contributions or make

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1 expenditures of two thousand five hundred dollars (\$2,500) or
2 more for the purpose of seeking election to the office or for
3 candidacy exploration purposes in the years prior to the year
4 of the election;

5 F. "contribution" means a gift, subscription, loan,
6 advance or deposit of money or other thing of value,
7 including the estimated value of an in-kind contribution, that
8 is made or received for a political purpose, including payment
9 of a debt incurred in an election campaign, but "contribution"
10 does not include the value of services provided without
11 compensation or unreimbursed travel or other personal expenses
12 of individuals who volunteer a portion or all of their time on
13 behalf of a candidate or political committee, nor does it
14 include the administrative or solicitation expenses of a
15 political committee that are paid by an organization that
16 sponsors the committee;

17 G. "deliver" or "delivery" means to deliver by
18 certified or registered mail, telecopier, electronic
19 transmission or facsimile or by personal service;

20 H. "election" means any primary, general or
21 statewide special election in New Mexico and includes county
22 and judicial retention elections but excludes municipal, school
23 board and special district elections;

24 I. "election year" means an even-numbered year in
25 which an election covered by the Campaign Reporting Act is

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1 held;

2 J. "expenditure" means a payment, transfer or
3 distribution or obligation or promise to pay, transfer or
4 distribute any money or other thing of value for a political
5 purpose, including payment of a debt incurred in an election
6 campaign or pre-primary convention, but does not include the
7 administrative or solicitation expenses of a political
8 committee that are paid by an organization that sponsors the
9 committee;

10 K. "lobbyist" means:

11 (1) a person required to register as a
12 lobbyist pursuant to the Lobbyist Regulation Act; and

13 (2) a person who was registered as a lobbyist
14 or required to be registered as a lobbyist at any time in the
15 twelve months prior to making a contribution;

16 [~~K.~~] L. "person" means an individual or entity;

17 [~~L.~~] M. "political committee" means two or more
18 persons, other than members of a candidate's immediate family
19 or campaign committee or a husband and wife who make a
20 contribution out of a joint account, who are selected,
21 appointed, chosen, associated, organized or operated primarily
22 for a political purpose; and "political committee" includes:

23 (1) political parties, political action
24 committees or similar organizations composed of employees or
25 members of any corporation, labor organization, trade or

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1 professional association or any other similar group that
2 raises, collects, expends or contributes money or any other
3 thing of value for a political purpose;

4 (2) a single individual whose actions
5 represent that the individual is a political committee; and

6 (3) a person or an organization of two or more
7 persons that within one calendar year expends funds in excess
8 of five hundred dollars (\$500) to conduct an advertising
9 campaign for a political purpose;

10 ~~[M.]~~ N. "political purpose" means influencing or
11 attempting to influence an election or pre-primary convention,
12 including a constitutional amendment or other question
13 submitted to the voters;

14 ~~[N.]~~ O. "prescribed form" means a form or
15 electronic format prepared and prescribed by the secretary of
16 state;

17 P. "principal of a state contractor or prospective
18 state contractor" means, in addition to the state contractor or
19 prospective state contractor itself:

20 (1) a person who is a member of the board of
21 directors of, or has an ownership interest in, a state
22 contractor or prospective state contractor, except for a person
23 who owns less than five percent of the shares of a state
24 contractor or prospective state contractor that is a publicly
25 traded corporation;

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1 (2) an agent seeking a state contract for a
2 state contractor or prospective state contractor; or

3 (3) a political committee established by or on
4 behalf of a person described in this subsection;

5 ~~[Q.]~~ Q. "proper filing officer" means either the
6 secretary of state or the county clerk as provided in Section
7 1-19-27 NMSA 1978;

8 R. "prospective state contractor" means a person
9 that responds to a solicitation for or seeks a state contract,
10 until the contract has been entered into or solicitation
11 anceled; but "prospective state contractor" does not include
12 the state or a political subdivision of the state or any
13 full-time or part-time employee of the state or a political
14 subdivision of the state, in that person's capacity as an
15 employee of the state or a political subdivision of the state
16 or a health care professional providing services under a
17 medicaid provider agreement;

18 S. "public office" means an office that is subject
19 to an election covered by the Campaign Reporting Act;

20 ~~[P.]~~ T. "public officer" or "public official" means
21 a person elected to an office in an election covered by the
22 Campaign Reporting Act or a person appointed to ~~[an]~~ a public
23 office; ~~[that is subject to an election covered by that act;~~
24 and

25 ~~[Q.]~~ U. "reporting individual" means every public

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1 official, candidate or treasurer of a campaign committee and
2 every treasurer of a political committee;

3 V. "state agency" means an office, department,
4 board, council, commission, institution or other agency in the
5 executive, legislative or judicial branch of state government;

6 W. "state contract" means an agreement or
7 transaction with a state agency having a value of two hundred
8 fifty thousand dollars (\$250,000) or more or a combination or
9 series of such agreements or transactions having a value of two
10 hundred fifty thousand dollars (\$250,000) or more in a fiscal
11 year for:

12 (1) the rendition of services, including
13 professional services and financial services;

14 (2) the furnishing of any material, supplies
15 or equipment;

16 (3) the construction, alteration or repair of
17 any public building or public work;

18 (4) the acquisition, sale or lease of any land
19 or building;

20 (5) a licensing arrangement;

21 (6) a loan or loan guarantee; or

22 (7) the purchase or sale of financial
23 securities or instruments or the investment of public money;

24 X. "state contractor" means a person that enters
25 into a state contract, which person shall be deemed to be a

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1 state contractor until the termination of the contract; but
2 "state contractor" does not include the state or a political
3 subdivision of the state or any full-time or part-time employee
4 of the state or a political subdivision of the state in that
5 person's capacity as an employee of the state or political
6 subdivision of the state or a health care professional
7 providing services under a medicaid provider agreement;

8 Y. "state public office" means the office of
9 governor, lieutenant governor, attorney general, state
10 treasurer, state auditor, secretary of state, commissioner of
11 public lands, public regulation commissioner, state senator or
12 state representative; and

13 Z. "state public officer" means a person elected to
14 or appointed to a state public office."

15 Section 5. REPEAL.--Laws 2009, Chapter 68, Section 2 is
16 repealed.

17 Section 6. SEVERABILITY.--If any part or application of
18 this act is held invalid, the remainder of its application to
19 other situations or persons shall not be affected.

20 Section 7. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is November 3, 2010.