

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 155

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO ELECTIONS; REDEFINING "POLITICAL COMMITTEE" AND
"POLITICAL PURPOSE" IN THE CAMPAIGN REPORTING ACT; REQUIRING
DISCLOSURE OF THE SOURCES OF FUNDS USED FOR EXPRESS ADVOCACY OR
THE FUNCTIONAL EQUIVALENT OF EXPRESS ADVOCACY; REQUIRING
DISCLAIMERS ON COMMUNICATIONS THAT CONSTITUTE EXPRESS ADVOCACY
OR THE FUNCTIONAL EQUIVALENT OF EXPRESS ADVOCACY; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009.

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] DISCLOSURE OF FUNDING USED FOR POLITICAL
ADVOCACY.--

A. A person, other than a candidate for state
public office, who engages in express advocacy or the

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underscoring material = new
~~[bracketed material] = delete~~

1 functional equivalent of express advocacy shall report the
2 details of the communication to the office of the secretary of
3 state, on forms that the secretary of state shall develop by
4 rule, if the total price of the communication, including
5 production and distribution costs, is more than five hundred
6 dollars (\$500).

7 B. The report shall include, at a minimum, the
8 following information:

9 (1) the name and address of the person making
10 the communication;

11 (2) the name and address of a responsible
12 officer who authorized the communication;

13 (3) a digital or print copy of the
14 communication;

15 (4) the source of funds for the communication:

16 (a) including general treasury funds and
17 the name and address of businesses, unions, groups,
18 associations or other organizations using general treasury
19 funds for the communication; provided that if a business,
20 union, group, association or other organization undertakes a
21 special solicitation of its members or other persons for a
22 communication, or it otherwise receives funds that are used for
23 a communication, that entity shall report pursuant to
24 Subparagraph (b) of this paragraph; and

25 (b) for special solicitations and other

1 funds, if funding from a person in the aggregate has exceeded
2 two hundred fifty dollars (\$250) for the communication, the
3 name and address of the person or, if the person is an
4 individual, the name, address, occupation and employer of the
5 person;

6 (5) a detailed description of each expenditure
7 of more than five hundred dollars (\$500);

8 (6) the date the expenditure was made and the
9 date the communication was first broadcast, transmitted,
10 mailed, erected, distributed or otherwise published;

11 (7) the amount of the expenditure;

12 (8) the name of each candidate clearly
13 identified in the communication, the office being sought by
14 each candidate and the amount of the expenditure attributable
15 to each candidate; and

16 (9) any other information the secretary of
17 state may require or exempt by rule in accordance with the
18 purposes of this section.

19 C. The report must be received by the office of the
20 secretary of state within two business days of the date on
21 which the communication is first distributed.

22 D. This section does not apply to:

23 (1) a voter guide allowed by the federal
24 Internal Revenue Code of 1986 to be produced and distributed by
25 Section 501(c)(3) organizations; or

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1 (2) communications appearing in a news story,
2 commentary or editorial distributed through print or electronic
3 media or the facilities of any broadcasting station, unless
4 such facilities or media are owned or controlled by any
5 political party, political committee or candidate."

6 SECTION 2. A new section of the Campaign Reporting Act is
7 enacted to read:

8 "[NEW MATERIAL] DISCLAIMERS FOR POLITICAL ADVOCACY.--

9 A. A person, other than a candidate for state
10 public office, who makes a communication that constitutes
11 express advocacy or the functional equivalent of express
12 advocacy shall specify on the communication:

13 (1) the words "authorized by" and the name,
14 address and phone number of a responsible officer who
15 authorized the communication;

16 (2) the words "paid for by" and the name of
17 the person who sponsored the communication; and

18 (3) a statement that the communication is not
19 authorized by any candidate or candidate's campaign committee.

20 B. Disclosure statements required by this section
21 shall be printed clearly and legibly on any printed or
22 electronic communications. If the communication is broadcast
23 on radio, the information shall be spoken at the end of the
24 communication. If the communication is broadcast on a
25 telecommunications system, the information shall be both

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1 written and spoken at the end of the communication, except that
2 if the disclosure statement is written for at least five
3 seconds of a thirty-second advertisement broadcast or ten
4 seconds of a sixty-second broadcast, a spoken disclosure is not
5 required. If the communication is broadcast on a
6 telecommunications system, the written disclosure statement
7 shall be printed in letters equal to or larger than four
8 percent of the vertical picture height.

9 C. This section does not apply to:

10 (1) a voter guide allowed by the federal
11 Internal Revenue Code of 1986 to be produced and distributed by
12 Section 501(c)(3) organizations; or

13 (2) communications appearing in a news story,
14 commentary or editorial distributed through print or electronic
15 media or the facilities of any broadcasting station, unless
16 such facilities or media are owned or controlled by any
17 political party, political committee or candidate."

18 **SECTION 3.** Section 1-19-26 NMSA 1978 (being Laws 1979,
19 Chapter 360, Section 2, as amended by Laws 2009, Chapter 67,
20 Section 1 and by Laws 2009, Chapter 68, Section 2) is amended
21 to read:

22 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
23 Act:

24 A. "advertising campaign" means an advertisement or
25 series of advertisements used for a political purpose and

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1 disseminated to the public either in print, by radio or
2 television broadcast or by any other electronic means,
3 including telephonic communications, and may include direct or
4 bulk mailings of printed materials;

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

9 C. "bank account" means an account in a financial
10 institution located in New Mexico;

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

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

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

25 (2) for a statewide office, has received

1 contributions or made expenditures of two thousand five hundred
2 dollars (\$2,500) or more or authorized another person or
3 campaign committee to receive contributions or make
4 expenditures of two thousand five hundred dollars (\$2,500) or
5 more for the purpose of seeking election to the office or for
6 candidacy exploration purposes in the years prior to the year
7 of the election;

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

20 G. "deliver" or "delivery" means to deliver by
21 certified or registered mail, telecopier, electronic
22 transmission or facsimile or by personal service;

23 H. "election" means any primary, general or
24 statewide special election in New Mexico and includes county
25 and judicial retention elections but excludes municipal, school

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1 board and special district elections;

2 I. "election year" means an even-numbered year in
3 which an election covered by the Campaign Reporting Act is
4 held;

5 J. "expenditure" means a payment, transfer or
6 distribution or obligation or promise to pay, transfer or
7 distribute any money or other thing of value for a political
8 purpose, including payment of a debt incurred in an election
9 campaign or pre-primary convention, but does not include the
10 administrative or solicitation expenses of a political
11 committee that are paid by an organization that sponsors the
12 committee, but "expenditure" does not include communications
13 from an organization to its own members or to persons who have
14 requested that the organization send them information,
15 including information conveyed on an organization's web site;

16 K. "express advocacy" means any communication that
17 asks the recipient to vote for or against a specific candidate
18 for state public office and that is distributed via broadcast,
19 cable, satellite, print or electronic media to voters living in
20 the district that the candidate seeks to represent;

21 L. "functional equivalent of express advocacy"
22 means any communication that occurs thirty days before a
23 primary election or sixty days before a general election and
24 that, when taken as a whole, can have no reasonable
25 interpretation other than as advocating the election or defeat

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1 of a candidate for state public office;

2 ~~[K.]~~ M. "person" means an individual or entity,
3 including a business entity, union or nonprofit organization;

4 ~~[L.]~~ N. "political committee" means two or more
5 persons, other than members of a candidate's immediate family
6 or campaign committee, ~~[or a husband and wife who make a~~
7 ~~contribution out of a joint account]~~ who are ~~[selected,~~
8 ~~appointed, chosen, associated]~~ organized or ~~[operated]~~ who
9 operate primarily for a political purpose; ~~[and "political~~
10 ~~committee" includes:~~

11 ~~(1) political parties, political action~~
12 ~~committees or similar organizations composed of employees or~~
13 ~~members of any corporation, labor organization, trade or~~
14 ~~professional association or any other similar group that~~
15 ~~raises, collects, expends or contributes money or any other~~
16 ~~thing of value for a political purpose;~~

17 ~~(2) a single individual whose actions~~
18 ~~represent that the individual is a political committee; and~~

19 ~~(3) a person or an organization of two or more~~
20 ~~persons that within one calendar year expends funds in excess~~
21 ~~of five hundred dollars (\$500) to conduct an advertising~~
22 ~~campaign for a political purpose;~~

23 ~~M.]~~ O. "political purpose" means influencing or
24 attempting to influence an election or pre-primary convention
25 ~~[including a constitutional amendment or other question~~

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1 ~~submitted to the voters]~~ by engaging in express advocacy or the
2 functional equivalent of express advocacy or advocating for the
3 passage or defeat of a constitutional amendment or other
4 question submitted to the voters;

5 [N-] P. "prescribed form" means a form or
6 electronic format prepared and prescribed by the secretary of
7 state;

8 [O-] Q. "proper filing officer" means either the
9 secretary of state or the county clerk as provided in Section
10 1-19-27 NMSA 1978;

11 [P-] R. "public official" means a person elected to
12 an office in an election covered by the Campaign Reporting Act
13 or a person appointed to an office that is subject to an
14 election covered by that act; ~~and~~

15 [Q-] S. "reporting individual" means every public
16 official, candidate or treasurer of a campaign committee and
17 every treasurer of a political committee; and

18 T. "state public office" means the office of
19 governor, lieutenant governor, attorney general, state
20 treasurer, state auditor, secretary of state, commissioner of
21 public lands, public regulation commissioner, state senator,
22 state representative, magistrate court judge, district court
23 judge, court of appeals judge, supreme court judge or county
24 commissioner."

25 SECTION 4. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2011.

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underscoring material = new
[bracketed material] = delete