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HOUSE BILL 310

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO ELECTIONS; PROHIBITING CERTAIN CONTRIBUTIONS BY THE
PRINCIPALS OF STATE CONTRACTORS AND PROSPECTIVE STATE
CONTRACTORS; 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] PRINCIPALS OF STATE CONTRACTORS AND
PROSPECTIVE STATE CONTRACTORS--PROHIBITED CONTRIBUTIONS.--

A. A principal of a prospective state contractor
shall not make a contribution to, or bundle contributions or
sponsor or host a fundraiser for the benefit of, a candidate
for a state public office that has administrative authority
over a state agency that is soliciting a contract to which the

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1 prospective state contractor responds.

2 B. During the term of the contract, a principal of
3 a state contractor shall not make a contribution to, or bundle
4 contributions or sponsor or host a fundraiser for the benefit
5 of, a candidate for a state public office that has
6 administrative authority over a state agency that has a state
7 contract with that state contractor.

8 C. The provisions of this section do not restrict a
9 principal of a state contractor or prospective state contractor
10 from contributing to the principal's own campaign for state
11 public office.

12 D. The provisions of this section supplement, and
13 do not limit, the provisions of other statutes or agency rules
14 that may further limit contributions from a principal of a
15 state contractor or prospective state contractor."

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

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

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

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1 including telephonic communications, and may include direct or
2 bulk mailings of printed materials;

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

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

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

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

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

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

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

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

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

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

25 I. "election year" means an even-numbered year in

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1 which an election covered by the Campaign Reporting Act is
2 held;

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

11 K. "person" means an individual or entity;

12 L. "political committee" means two or more persons,
13 other than members of a candidate's immediate family or
14 campaign committee or a husband and wife who make a
15 contribution out of a joint account, who are selected,
16 appointed, chosen, associated, organized or operated primarily
17 for a political purpose; and "political committee" includes:

18 (1) political parties, political action
19 committees or similar organizations composed of employees or
20 members of any corporation, labor organization, trade or
21 professional association or any other similar group that
22 raises, collects, expends or contributes money or any other
23 thing of value for a political purpose;

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

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

5 M. "political purpose" means influencing or
6 attempting to influence an election or pre-primary convention,
7 including a constitutional amendment or other question
8 submitted to the voters;

9 N. "prescribed form" means a form or electronic
10 format prepared and prescribed by the secretary of state;

11 O. "principal of a state contractor or prospective
12 state contractor" means, in addition to the state contractor or
13 prospective state contractor itself:

14 (1) a person who is a member of the board of
15 directors of, or has an ownership interest in, a state
16 contractor or prospective state contractor, except for a person
17 who owns less than five percent of the shares of a state
18 contractor or prospective state contractor that is a publicly
19 traded corporation;

20 (2) a person who is employed as the chief
21 executive officer, president or equivalent top management
22 position of a state contractor or prospective state contractor;

23 (3) an agent seeking a state contract for a
24 state contractor or prospective state contractor;

25 (4) the spouse or a dependent child of a

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1 person described in Paragraphs (1) through (3) of this
2 subsection; or

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

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

15 ~~[Q.]~~ Q. "proper filing officer" means either the
16 secretary of state or the county clerk as provided in Section
17 1-19-27 NMSA 1978;

18 ~~[R.]~~ R. "public official" means a person elected to
19 an office in an election covered by the Campaign Reporting Act
20 or a person appointed to an office that is subject to an
21 election covered by that act; ~~and~~

22 ~~[S.]~~ S. "reporting individual" means every public
23 official, candidate or treasurer of a campaign committee and
24 every treasurer of a political committee;

25 T. "state agency" means an office, department,

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1 board, council, commission, institution or other administrative
2 division within a state public office;

3 U. "state contract" means an agreement or
4 transaction with a state agency having a value of fifty
5 thousand dollars (\$50,000) or more or a combination or series
6 of such agreements or transactions having a value of fifty
7 thousand dollars (\$50,000) or more in a fiscal year for:

8 (1) the rendition of services, including
9 professional services and financial services;

10 (2) the furnishing of any material, supplies
11 or equipment;

12 (3) the construction, alteration or repair of
13 any public building or public work;

14 (4) the acquisition, sale or lease of any land
15 or building;

16 (5) a licensing arrangement;

17 (6) a loan or loan guarantee; or

18 (7) the purchase or sale of financial
19 securities or instruments or the investment of public money;

20 V. "state contractor" means a person that enters
21 into a state contract, which person shall be deemed to be a
22 state contractor until the termination of the contract; but
23 "state contractor" does not include the state or a political
24 subdivision of the state or any full-time or part-time employee
25 of the state or a political subdivision of the state in that

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1 person's capacity as an employee of the state or political
2 subdivision of the state or a health care professional
3 providing services under a medicaid provider agreement; and

4 W. "state public office" means the office of
5 governor, lieutenant governor, attorney general, state
6 treasurer, state auditor, secretary of state, commissioner of
7 public lands, public regulation commissioner, state senator or
8 state representative."

9 SECTION 3. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is November 7, 2012.