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SENATE BILL 1053

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO CAMPAIGN PRACTICES; PROHIBITING DEFAMATION OF  
CANDIDATES DURING A POLITICAL CAMPAIGN; CREATING A CRIMINAL  
OFFENSE; PRESCRIBING A PENALTY; AUTHORIZING THE INTERIM  
LEGISLATIVE ETHICS COMMITTEE TO INVESTIGATE COMPLAINTS OF FALSE  
STATEMENTS MADE BY CANDIDATES ABOUT THEIR OPPONENTS DURING  
CAMPAIGN FOR LEGISLATIVE OFFICE.

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

Section 1. A new section of the Election Code is enacted  
to read:

"[NEW MATERIAL] DEFAMATION OF A CANDIDATE DURING A  
POLITICAL CAMPAIGN-- PENALTY. --

A. Defamation of a candidate during a political  
campaign consists of a false statement made either knowingly or  
with reckless disregard for the truth of that statement by any

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1 person about a candidate during a political campaign, whether  
2 the false statement is written or spoken.

3 B. Any person who commits defamation of a candidate  
4 during a political campaign is guilty of a fourth degree felony  
5 and shall be sentenced up to eighteen months imprisonment or, in  
6 the court's discretion, to a fine of no more than five thousand  
7 dollars (\$5,000), or both. "

8 Section 2. Section 2-15-8 NMSA 1978 (being Laws 1993,  
9 Chapter 46, Section 53) is amended to read:

10 "2-15-8. INTERIM LEGISLATIVE ETHICS COMMITTEE-- DUTIES. --

11 The interim legislative ethics committee is authorized to:

12 A. issue advisory opinions on the interpretation and  
13 enforcement of ethical principles as applied to the legislature;

14 B. investigate complaints from another member of the  
15 legislature or a member of the public alleging misconduct of a  
16 legislator;

17 C. investigate complaints from a member of the  
18 legislature or a member of the public alleging that a duly  
19 qualified candidate for a state legislative office knowingly  
20 made a false statement, whether verbally, in print, in a radio  
21 or television broadcast or by any other means, about a duly  
22 qualified opponent during a campaign for any legislative office;

23 [~~C.~~] D. investigate referrals made to the co-  
24 chairmen of the New Mexico legislative council from the attorney  
25 general, the secretary of state or a district attorney;

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1           ~~[D-]~~ E. hire special counsel or independent hearing  
2 officers as necessary; and

3           ~~[E-]~~ E. make recommendations to the respective  
4 houses by the end of the first full week of the next convened  
5 regular session regarding proposed sanctions for ethical  
6 misconduct of legislators and candidates for the legislature."

7           Section 3. Section 2-15-9 NMSA 1978 (being Laws 1993,  
8 Chapter 46, Section 54) is amended to read:

9           "2-15-9. INTERIM LEGISLATIVE ETHICS COMMITTEE--  
10 PROCEDURES-- CONFIDENTIALITY. --

11           A. Except as provided in this section, the  
12 New Mexico legislative council shall develop procedures to carry  
13 out the provisions of this section, in accordance with the  
14 existing procedures in the house and senate rules.

15           B. A member of the interim legislative ethics  
16 committee ~~[shall be]~~ is ineligible to participate in any matter  
17 relating directly to that member's conduct or to a campaign for  
18 a legislative office in which that member is participating. In  
19 any such case, a substitute member to the committee shall be  
20 appointed from the same house from the same political party by  
21 the appropriate appointing authority. A member may seek to be  
22 disqualified from any matter brought before the interim  
23 legislative ethics committee on the grounds that the member  
24 cannot render a fair and impartial decision. Disqualification  
25 must be approved by a majority vote of the remaining members of

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1 the committee. In any such case, a substitute member to the  
2 committee shall be appointed from the same political party as  
3 provided in this section.

4 C. The interim legislative ethics committee is  
5 authorized to issue advisory opinions on matters relating to  
6 ethical conduct during the interim. Any question relating to  
7 the interpretation and enforcement of ethical principles as  
8 applied to the legislature may be submitted in writing to the  
9 New Mexico legislative council by a legislator describing a real  
10 or hypothetical situation and requesting an advisory opinion  
11 establishing an appropriate standard of ethical conduct for that  
12 situation. The question shall be referred to the [~~joint~~]  
13 interim legislative ethics committee.

14 D. The interim legislative ethics committee is  
15 authorized to investigate complaints from members of the  
16 legislature or members of the public alleging that a legislator  
17 or a duly qualified candidate for a state legislative office has  
18 made one or more false statements about a duly qualified  
19 campaign opponent.

20 [~~D.~~] E. To initiate any action during the interim on  
21 alleged misconduct, any legislator or member of the public may  
22 file a written, sworn complaint setting forth, with specificity,  
23 the facts alleged to constitute unethical conduct. A complaint  
24 shall be filed with the New Mexico legislative council. Upon  
25 receipt of the complaint, the co-chairmen of the New Mexico

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1 legislative council shall convene the interim legislative ethics  
2 committee.

3 ~~[E.]~~ E. The interim legislative ethics committee  
4 shall maintain rules of confidentiality unless the legislator  
5 against whom a complaint is filed waives the rules or any part  
6 of them in writing. The confidentiality rules shall include the  
7 following provisions:

8 (1) the complainant, the committee and its  
9 staff shall not publicly disclose any information relating to  
10 the filing or investigation of a complaint, including the  
11 identity of the complainant or respondent, until after a finding  
12 of probable cause has been made that a violation has occurred;

13 (2) the identity of the complainant shall be  
14 released to the respondent immediately upon request; and

15 (3) no member of the committee or its staff may  
16 knowingly disclose any confidential information except as  
17 authorized by the committee.

18 G. If the interim legislative ethics committee finds  
19 that a legislator or duly qualified candidate has made a false  
20 statement about a duly qualified campaign opponent, the  
21 committee shall issue a written report of its finding and shall  
22 forward a copy of the written report to the complainant. A  
23 separate copy of the written report shall be made available for  
24 public inspection in the office of the legislative council  
25 service."

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