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HOUSE BILL 172

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

INTRODUCED BY

Gail Chasey

AN ACT

RELATING TO ELECTIONS; PROHIBITING CERTAIN CONTRIBUTIONS AND SOLICITATIONS OF CONTRIBUTIONS BY BUSINESS ENTITIES, LOBBYISTS AND THE PRINCIPALS OF STATE CONTRACTORS; PROHIBITING CERTAIN SOLICITATIONS OF CONTRIBUTIONS FROM BUSINESS ENTITIES, LOBBYISTS AND THE PRINCIPALS OF STATE CONTRACTORS; PROHIBITING THE BUNDLING OF CONTRIBUTIONS BY BUSINESS ENTITIES, LOBBYISTS AND THE PRINCIPALS OF STATE CONTRACTORS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009; 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] BUSINESS ENTITIES--CONTRIBUTIONS FOR CANDIDATES AND CERTAIN POLITICAL COMMITTEES PROHIBITED.--

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1 A. A business entity shall not make a contribution
2 to or solicit a contribution on behalf of or for the benefit
3 of:

4 (1) a candidate for nomination or election to
5 a state public office or a political committee established by
6 the candidate; or

7 (2) a political committee if:

8 (a) the committee is established by a
9 state public officer or an agent of the officer or in
10 consultation with or at the request of the officer or agent of
11 the officer;

12 (b) the committee is controlled by a
13 state public officer or agent of the officer to aid or promote
14 the nomination or election of one or more candidates for state
15 public office; or

16 (c) the contributor knows or requests
17 that the contribution will be used for the benefit of or given
18 to a candidate for nomination or election to a state public
19 office.

20 B. A state public officer, candidate or political
21 committee described in Subsection A of this section shall not
22 accept or solicit a contribution prohibited by that subsection.

23 C. The provisions of this section shall not
24 preclude a business entity from making contributions or
25 expenditures to promote the success or defeat of a ballot

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1 question."

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

4 "[NEW MATERIAL] LOBBYISTS--CONTRIBUTIONS FOR CANDIDATES
5 AND CERTAIN POLITICAL COMMITTEES PROHIBITED.--

6 A. A lobbyist that is subject to the Lobbyist
7 Regulation Act shall not make a contribution to or solicit a
8 contribution on behalf of or for the benefit of:

9 (1) a candidate for nomination or election to
10 a state public office or a political committee established by
11 the candidate; or

12 (2) a political committee if:

13 (a) the committee is established by a
14 state public officer or an agent of the officer or in
15 consultation with or at the request of the officer or agent of
16 the officer;

17 (b) the committee is controlled by a
18 state public officer or agent of the officer to aid or promote
19 the nomination or election of one or more candidates for state
20 public office; or

21 (c) the contributor knows or requests
22 that the contribution will be used for the benefit of or given
23 to a candidate for nomination or election to a state public
24 office.

25 B. A state public officer, candidate or political

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1 committee described in Subsection A of this section shall not
2 accept or solicit a contribution prohibited by that subsection.

3 C. The provisions of this section shall not
4 restrict a lobbyist from establishing a political committee for
5 the lobbyist's own campaign or from soliciting contributions
6 from persons not prohibited from making contributions pursuant
7 to this section.

8 D. The provisions of this section shall not
9 preclude a lobbyist from making contributions or expenditures
10 to promote the success or defeat of a ballot measure."

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

13 "[NEW MATERIAL] STATE CONTRACTORS--CONTRIBUTIONS FOR
14 CANDIDATES AND CERTAIN POLITICAL COMMITTEES PROHIBITED.--

15 A. A state contractor or principal of a state
16 contractor shall not make a contribution to or solicit a
17 contribution on behalf of or for the benefit of:

18 (1) a candidate for nomination or election to
19 a state public office or a political committee established by
20 the candidate; or

21 (2) a political committee if:

22 (a) the committee is established by a
23 state public officer or an agent of the officer or in
24 consultation with or at the request of the officer or an agent
25 of the officer;

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1 (b) the committee is controlled by a
2 state public officer or an agent of the officer to aid or
3 promote the nomination or election of one or more candidates
4 for state public office; or

5 (c) the contributor knows or requests
6 that the contribution will be used for the benefit of or given
7 to a candidate for nomination or election to a state public
8 office.

9 B. A state public officer, candidate or political
10 committee described in Subsection A of this section shall not
11 accept or solicit a contribution prohibited by that subsection.

12 C. The provisions of this section shall not
13 restrict a principal of a state contractor from establishing a
14 political committee for the principal's own campaign or from
15 soliciting contributions from persons not prohibited from
16 making contributions by this section.

17 D. The provisions of this section shall not
18 preclude a state contractor or principal of a state contractor
19 from making contributions or expenditures to promote the
20 success or defeat of a ballot measure.

21 E. The provisions of this section supplement and do
22 not limit the provisions of other statutes or agency rules that
23 may further limit contractor contributions."

24 Section 4. A new section of the Campaign Reporting Act is
25 enacted to read:

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1 "[NEW MATERIAL] BUNDLING OF CONTRIBUTIONS.--A person
2 prohibited from contributing to or for the benefit of a
3 candidate for state public office by the Campaign Reporting Act
4 shall not facilitate the collection of contributions from legal
5 contributors that the person is prohibited from making on the
6 person's own behalf."

7 Section 5. Section 1-19-26 NMSA 1978 (being Laws 1979,
8 Chapter 360, Section 2, as amended) is amended to read:

9 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
10 Act:

11 A. "advertising campaign" means an advertisement or
12 series of advertisements used for a political purpose and
13 disseminated to the public either in print, by radio or
14 television broadcast or by any other electronic means,
15 including telephonic communications, and may include direct or
16 bulk mailings of printed materials;

17 B. "anonymous contribution" means a contribution
18 the contributor of which is unknown to the candidate or the
19 candidate's agent or the political committee or its agent who
20 accepts the contribution;

21 C. "bank account" means an account in a financial
22 institution located in New Mexico;

23 D. "business entity" includes, whether organized
24 inside or outside of New Mexico, a sole proprietorship, a
25 partnership, a joint venture, a limited liability company, a

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1 corporation and any other association, organization or entity
2 that is engaged in the operation of a business or profit-making
3 activity;

4 [D-] E. "campaign committee" means two or more
5 persons authorized by a candidate to raise, collect or expend
6 contributions on the candidate's behalf for the purpose of
7 electing the candidate to office;

8 [E-] F. "candidate" means an individual who seeks
9 or considers an office in an election covered by the Campaign
10 Reporting Act, including a public official, who either has
11 filed a declaration of candidacy or nominating petition or:

12 (1) for a non-statewide office, has received
13 contributions or made expenditures of one thousand dollars
14 (\$1,000) or more or authorized another person or campaign
15 committee to receive contributions or make expenditures of one
16 thousand dollars (\$1,000) or more for the purpose of seeking
17 election to the office; or

18 (2) for a statewide office, has received
19 contributions or made expenditures of two thousand five hundred
20 dollars (\$2,500) or more or authorized another person or
21 campaign committee to receive contributions or make
22 expenditures of two thousand five hundred dollars (\$2,500) or
23 more for the purpose of seeking election to the office or for
24 candidacy exploration purposes in the years prior to the year
25 of the election;

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

13 ~~[G.]~~ H. "deliver" or "delivery" means to deliver by
14 certified or registered mail, telecopier, electronic
15 transmission or facsimile or by personal service;

16 ~~[H.]~~ I. "election" means any primary, general or
17 statewide special election in New Mexico and includes county
18 and judicial retention elections but excludes municipal, school
19 board and special district elections;

20 ~~[I.]~~ J. "election year" means an even-numbered year
21 in which an election covered by the Campaign Reporting Act is
22 held;

23 ~~[J.]~~ K. "expenditure" means a payment, transfer or
24 distribution or obligation or promise to pay, transfer or
25 distribute any money or other thing of value for a political

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1 purpose, including payment of a debt incurred in an election
2 campaign or pre-primary convention, but does not include the
3 administrative or solicitation expenses of a political
4 committee that are paid by an organization that sponsors the
5 committee;

6 [K-] L. "person" means an individual or entity;

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

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

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

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

25 [M-] N. "political purpose" means influencing or

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1 attempting to influence an election or pre-primary convention,
2 including a constitutional amendment or other question
3 submitted to the voters;

4 ~~[N.]~~ O. "prescribed form" means a form or
5 electronic format prepared and prescribed by the secretary of
6 state;

7 P. "principal of a state contractor" means, in
8 addition to the state contractor:

9 (1) a person who is a member of the board of
10 directors of, or has an ownership interest in, a state
11 contractor, except for a person who owns less than five percent
12 of the shares of a state contractor that is a publicly traded
13 corporation;

14 (2) a person who is employed as president,
15 treasurer, executive vice president or senior vice president of
16 a state contractor that is a business entity;

17 (3) a person who is the chief executive
18 officer of a state contractor;

19 (4) an employee of a state contractor who has
20 managerial or discretionary responsibilities with respect to a
21 state contract;

22 (5) the spouse or a dependent child of a
23 person described in Paragraphs (1) through (4) of this
24 subsection; or

25 (6) a political committee established by or on

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1 behalf of a person described in this subsection;

2 ~~[Q.]~~ Q. "proper filing officer" means either the
3 secretary of state or the county clerk as provided in Section
4 1-19-27 NMSA 1978;

5 ~~[P.]~~ R. "public office" means an office that is
6 subject to an election covered by the Campaign Reporting Act;

7 S. "public officer" or "public official" means a
8 person elected to an office in an election covered by the
9 Campaign Reporting Act or a person appointed to ~~[an]~~ a public
10 office; ~~[that is subject to an election covered by that act;~~
11 and

12 ~~[Q.]~~ T. "reporting individual" means every public
13 official, candidate or treasurer of a campaign committee and
14 every treasurer of a political committee;

15 U. "state agency" means an office, department,
16 board, council, commission, institution or other agency in the
17 executive, legislative or judicial branch of state government;

18 V. "state contract" means an agreement or
19 transaction with a state agency or an instrumentality of the
20 state having a value of twenty thousand dollars (\$20,000) or
21 more, or a combination or series of such agreements or
22 transactions having a value of twenty thousand dollars
23 (\$20,000) or more, in a fiscal year for:

24 (1) the rendition of services, including
25 professional services and financial services;

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

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

5 (4) the acquisition, sale or lease of any land
6 or building;

7 (5) a licensing arrangement;

8 (6) a loan or loan guarantee; or

9 (7) the purchase or sale of financial
10 securities or instruments or the investment of public money;

11 W. "state contractor" means a person, including a
12 business entity or nonprofit organization, that enters into a
13 state contract, which person shall be deemed to be a state
14 contractor until the termination of the contract; but "state
15 contractor" does not include the state or a political
16 subdivision of the state or any full-time or part-time employee
17 of the state or a political subdivision of the state in that
18 person's capacity as an employee of the state or political
19 subdivision of the state;

20 X. "state public office" means the office of
21 governor, lieutenant governor, attorney general, state
22 treasurer, state auditor, secretary of state, commissioner of
23 public lands, public regulation commissioner, state senator or
24 state representative; and

25 Y. "state public officer" means a person elected to

1 or appointed to a state public office."

2 Section 6. REPEAL.--Laws 2009, Chapter 68, Section 2 is
3 repealed.

4 Section 7. SEVERABILITY.--If any part or application of
5 this act is held invalid, the remainder of its application to
6 other situations or persons shall not be affected.

7 Section 8. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is November 3, 2010.

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