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SENATE BILL 48

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

INTRODUCED BY

Timothy M. Keller

AN ACT

RELATING TO STATE CONTRACTS; PROHIBITING CERTAIN CONTRIBUTIONS AND SOLICITATIONS OF CONTRIBUTIONS BY STATE CONTRACTORS AND THE PRINCIPALS OF STATE CONTRACTORS; PROHIBITING CERTAIN CONTRIBUTIONS AND SOLICITATIONS OF CONTRIBUTIONS BY PROSPECTIVE STATE CONTRACTORS AND THE PRINCIPALS OF PROSPECTIVE STATE CONTRACTORS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAWS 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] STATE CONTRACTORS--CONTRIBUTIONS FOR CANDIDATES AND CERTAIN POLITICAL COMMITTEES PROHIBITED.--

A. A principal of a state contractor or prospective

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1 state contractor shall not make a contribution to or solicit  
2 contributions on behalf of:

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

6 (2) a political committee:

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

11 (b) controlled by a state public officer  
12 or an agent of the state public officer to aid or promote the  
13 nomination or election of any candidate or candidates to a  
14 state office.

15 B. A candidate or political committee described in  
16 Subsection A of this section shall not accept or solicit a  
17 contribution prohibited by that subsection.

18 C. If a principal of a state contractor makes or  
19 solicits a contribution prohibited by Subsection A of this  
20 section, the contracting agency of the state may, in the case  
21 of a state contract executed on or after the effective date of  
22 this section, void the existing contract with that contractor,  
23 and no state agency or instrumentality of the state shall award  
24 that state contractor a state contract or an extension or  
25 amendment to a state contract for two years after the election

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1 for which the contribution is made or solicited. Each state  
2 contract shall include the provisions of this subsection and  
3 Subsection A of this section as conditions of the contract.

4 D. The provisions of this section shall not  
5 restrict a principal of a state contractor or prospective state  
6 contractor from establishing a campaign committee for the  
7 principal's own campaign or from soliciting contributions from  
8 persons not prohibited from making contributions by this  
9 section."

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

12 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting  
13 Act:

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

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

24 C. "bank account" means an account in a financial  
25 institution located in New Mexico;

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1                   D. "business entity" includes, whether organized  
2 inside or outside of New Mexico, a sole proprietorship, a  
3 partnership, a joint venture, a limited liability company, a  
4 corporation and any other association, organization or entity  
5 that is engaged in the operation of a business or profit-making  
6 activity;

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

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

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

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

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1 more for the purpose of seeking election to the office or for  
2 candidacy exploration purposes in the years prior to the year  
3 of the election;

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

16 [G-] H. "deliver" or "delivery" means to deliver by  
17 certified or registered mail, telecopier, electronic  
18 transmission or facsimile or by personal service;

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

23 [I-] J. "election year" means an even-numbered year  
24 in which an election covered by the Campaign Reporting Act is  
25 held;

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

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

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

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

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

24                   (3) a person or an organization of two or more  
25 persons that within one calendar year expends funds in excess

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1 of five hundred dollars (\$500) to conduct an advertising  
2 campaign for a political purpose;

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

7 ~~[N.]~~ O. "prescribed form" means a form or  
8 electronic format prepared and prescribed by the secretary of  
9 state;

10 P. "principal of a state contractor or prospective  
11 state contractor" means, in addition to the state contractor:

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

18 (2) a person who is employed as president,  
19 treasurer, executive vice president or senior vice president of  
20 a state contractor or prospective state contractor that is a  
21 business entity;

22 (3) a person who is the chief executive  
23 officer of a state contractor or prospective state contractor;

24 (4) an employee of a state contractor or  
25 prospective state contractor who has managerial or

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1 discretionary responsibilities with respect to a state  
2 contract;

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

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

8 ~~[Q.]~~ 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 R. "prospective state contractor" means a person,  
12 including a business entity or nonprofit organization, that  
13 responds to a solicitation for or seeks a state contract; but  
14 "prospective state contractor" does not include the state or a  
15 political subdivision of the state or any full-time or part-  
16 time employee of the state or a political subdivision of the  
17 state, in that person's capacity as an employee of the state or  
18 a political subdivision of the state;

19 ~~[P.]~~ S. "public office" means an office that is  
20 subject to an election covered by the Campaign Reporting Act;

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

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1           Q.] U. "reporting individual" means every public  
2 official, candidate or treasurer of a campaign committee and  
3 every treasurer of a political committee;

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

7           W. "state contract" means an agreement or  
8 transaction with a state agency or instrumentality of the state  
9 having a value of fifty thousand dollars (\$50,000) or more, or  
10 a combination or series of such agreements or transactions  
11 having a value of fifty thousand dollars (\$50,000) or more, in  
12 a fiscal year for:

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

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

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

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

21                   (5) a licensing arrangement;

22                   (6) a loan or loan guarantee; or

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

25           X. "state contractor" means a person, including a

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1 business entity or nonprofit organization, that enters into a  
2 state contract, which person shall be deemed to be a state  
3 contractor until the termination of the contract; but "state  
4 contractor" does not include the state or a political  
5 subdivision of the state or any full-time or part-time employee  
6 of the state or a political subdivision of the state, in that  
7 person's capacity as an employee of the state or political  
8 subdivision of the state;

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

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

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