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SENATE BILL 49

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

INTRODUCED BY
Eric G. Griego

AN ACT

RELATING TO ELECTIONS; PROHIBITING CERTAIN CONTRIBUTIONS AND SOLICITATIONS OF CONTRIBUTIONS BY BUSINESS ENTITIES AND LOBBYISTS AND THE PRINCIPALS OF STATE CONTRACTORS; PROHIBITING CERTAIN SOLICITATIONS OF CONTRIBUTIONS FROM BUSINESS ENTITIES AND 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.--

A. A business entity shall not make a contribution to or solicit a contribution on behalf of:

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

4 (2) a political committee:

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

9 (b) controlled by a public officer or
10 agent of the public officer to aid or promote the nomination or
11 election of any candidate or candidates to a public office.

12 B. A public officer, candidate or political
13 committee described in Subsection A of this section shall not
14 accept or solicit a contribution prohibited by that subsection.

15 C. The provisions of this section shall not
16 preclude a business entity from making contributions or
17 expenditures to promote the success or defeat of a ballot
18 question."

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

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

23 A. A lobbyist, subject to the Lobbyist Regulation
24 Act, shall not make a contribution to or solicit a contribution
25 on behalf of:

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

4 (2) a political committee:

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

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

12 B. A public officer, candidate or political
13 committee described in Subsection A of this section shall not
14 solicit or accept a contribution prohibited by that subsection.

15 C. The provisions of this section shall not
16 restrict a lobbyist from establishing a campaign committee for
17 the lobbyist's own campaign or from soliciting contributions
18 from persons not prohibited from making contributions pursuant
19 to this section."

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

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

24 A. A state contractor or a principal of a state
25 contractor shall not make a contribution to or solicit

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1 contributions on behalf of:

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

5 (2) a political committee:

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

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

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

16 C. The provisions of this section shall not
17 restrict a principal of a state contractor from establishing a
18 campaign committee for the principal's own campaign or from
19 soliciting contributions from persons not prohibited from
20 making contributions by this section."

21 Section 4. Section 1-19-26 NMSA 1978 (being Laws 1979,
22 Chapter 360, Section 2, as amended) is amended to read:

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

25 A. "advertising campaign" means an advertisement or

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

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

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

12 D. "business entity" includes, whether organized
13 inside or outside of New Mexico, a sole proprietorship, a
14 partnership, a joint venture, a limited liability company, a
15 corporation and any other association, organization or entity
16 that is engaged in the operation of a business or profit-making
17 activity;

18 [~~D.~~] E. "campaign committee" means two or more
19 persons authorized by a candidate to raise, collect or expend
20 contributions on the candidate's behalf for the purpose of
21 electing the candidate to office;

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

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1 (1) for a non-statewide office, has received
2 contributions or made expenditures of one thousand dollars
3 (\$1,000) or more or authorized another person or campaign
4 committee to receive contributions or make expenditures of one
5 thousand dollars (\$1,000) or more for the purpose of seeking
6 election to the office; or

7 (2) for a statewide office, has received
8 contributions or made expenditures of two thousand five hundred
9 dollars (\$2,500) or more or authorized another person or
10 campaign committee to receive contributions or make
11 expenditures of two thousand five hundred dollars (\$2,500) or
12 more for the purpose of seeking election to the office or for
13 candidacy exploration purposes in the years prior to the year
14 of the election;

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

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1 sponsors the committee;

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

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

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

12 ~~[J.]~~ K. "expenditure" means a payment, transfer or
13 distribution or obligation or promise to pay, transfer or
14 distribute any money or other thing of value for a political
15 purpose, including payment of a debt incurred in an election
16 campaign or pre-primary convention, but does not include the
17 administrative or solicitation expenses of a political
18 committee that are paid by an organization that sponsors the
19 committee;

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

21 ~~[L.]~~ M. "political committee" means two or more
22 persons, other than members of a candidate's immediate family
23 or campaign committee or a husband and wife who make a
24 contribution out of a joint account, who are selected,
25 appointed, chosen, associated, organized or operated primarily

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1 for a political purpose; and "political committee" includes:

2 (1) political parties, political action
3 committees or similar organizations composed of employees or
4 members of any corporation, labor organization, trade or
5 professional association or any other similar group that
6 raises, collects, expends or contributes money or any other
7 thing of value for a political purpose;

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

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

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

18 [~~N.~~] O. "prescribed form" means a form or
19 electronic format prepared and prescribed by the secretary of
20 state;

21 P. "principal of a state contractor" means, in
22 addition to the state contractor:

23 (1) a person who is a member of the board of
24 directors of, or has an ownership interest in, a state
25 contractor, except for a person who owns less than five percent

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1 of the shares of a state contractor that is a publicly traded
2 corporation;

3 (2) a person who is employed as president,
4 treasurer, executive vice president or senior vice president of
5 a state contractor that is a business entity;

6 (3) a person who is the chief executive
7 officer of a state contractor;

8 (4) an employee of a state contractor who has
9 managerial or discretionary responsibilities with respect to a
10 state contract;

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

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

16 ~~[Q.]~~ Q. "proper filing officer" means either the
17 secretary of state or the county clerk as provided in Section
18 1-19-27 NMSA 1978;

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

21 S. "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.] T. "reporting individual" means every public
2 official, candidate or treasurer of a campaign committee and
3 every treasurer of a political committee;

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

8 V. "state contract" means an agreement or contract
9 with the state or any state agency having a value of twenty
10 thousand dollars (\$20,000) or more, or a combination or series
11 of such agreements or contracts having a value of twenty
12 thousand dollars (\$20,000) or more, in 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 grant, loan or loan guarantee; or

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

25 and

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

10 Section 5. REPEAL.--Laws 2009, Chapter 68, Section 2 is
11 repealed.