

HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR  
HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 155

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

AN ACT

RELATING TO ELECTIONS; REDEFINING "POLITICAL COMMITTEE" AND  
"POLITICAL PURPOSE" IN THE CAMPAIGN REPORTING ACT; REQUIRING  
DISCLOSURE OF THE SOURCES OF FUNDS USED FOR EXPRESS ADVOCACY OR  
THE FUNCTIONAL EQUIVALENT OF EXPRESS ADVOCACY; REQUIRING  
DISCLAIMERS ON COMMUNICATIONS THAT CONSTITUTE EXPRESS ADVOCACY  
OR THE FUNCTIONAL EQUIVALENT OF EXPRESS ADVOCACY; 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] DISCLOSURE OF FUNDING USED FOR POLITICAL  
ADVOCACY.--

A. A person, other than a candidate for state  
public office, who engages in express advocacy or the

.185730.1

underscoring material = new  
[bracketed material] = delete

1 functional equivalent of express advocacy shall report the  
2 details of the communication to the office of the secretary of  
3 state, on forms that the secretary of state shall develop by  
4 rule, if the total price of the communication, including  
5 production and distribution costs, is more than five hundred  
6 dollars (\$500).

7 B. The report shall include, at a minimum, the  
8 following information:

9 (1) the name and address of the person making  
10 the communication;

11 (2) the name and address of a responsible  
12 officer who authorized the communication;

13 (3) a digital or print copy of the  
14 communication;

15 (4) the source of funds for the communication:

16 (a) including general treasury funds and  
17 the name and address of businesses, unions, groups,  
18 associations or other organizations using general treasury  
19 funds for the communication; provided that if a business,  
20 union, group, association or other organization undertakes a  
21 special solicitation of its members or other persons earmarked  
22 for a communication, or it otherwise receives funds for the  
23 purpose of furthering a communication, that entity shall report  
24 pursuant to Subparagraph (b) of this paragraph; and

25 (b) for special solicitations and other

.185730.1

1 funds, if funding from a person has exceeded one thousand  
2 dollars (\$1,000) in the aggregate in one calendar year for the  
3 communication, the name and address of the person or, if the  
4 person is an individual, the name, address, occupation and  
5 employer of the person;

6 (5) a detailed description of each expenditure  
7 of more than five hundred dollars (\$500);

8 (6) the date the expenditure was made and the  
9 date the communication was first broadcast, transmitted,  
10 mailed, erected, distributed or otherwise published;

11 (7) the amount of the expenditure;

12 (8) the name of each candidate clearly  
13 identified in the communication, the office being sought by  
14 each candidate and the amount of the expenditure attributable  
15 to each candidate; and

16 (9) any other information the secretary of  
17 state may require or exempt by rule in accordance with the  
18 purposes of this section.

19 C. The report must be received by the office of the  
20 secretary of state within two business days of the date on  
21 which the communication is first distributed.

22 D. This section does not apply to:

23 (1) a voter guide allowed by the federal  
24 Internal Revenue Code of 1986 to be produced and distributed by  
25 Section 501(c)(3) organizations; or

.185730.1

1                   (2) communications appearing in a news story,  
2 commentary or editorial distributed through print or electronic  
3 media or the facilities of any broadcasting station, unless  
4 such facilities or media are owned or controlled by any  
5 political party, political committee or candidate."

6           **SECTION 2.** A new section of the Campaign Reporting Act is  
7 enacted to read:

8           "[NEW MATERIAL] DISCLAIMERS FOR POLITICAL ADVOCACY.--

9           A. A person, other than a candidate for state  
10 public office, who makes a communication that constitutes  
11 express advocacy or the functional equivalent of express  
12 advocacy shall specify on the communication:

13                   (1) the words "authorized by" and the name,  
14 address and phone number of a responsible officer who  
15 authorized the communication;

16                   (2) the words "paid for by" and the name of  
17 the person who sponsored the communication; and

18                   (3) a statement as to whether the  
19 communication is or is not coordinated and authorized by any  
20 candidate or candidate's campaign committee.

21           B. Disclosure statements required by this section  
22 shall be printed clearly and legibly on any printed or  
23 electronic communications. If the communication is broadcast  
24 on radio, the information shall be spoken at the end of the  
25 communication. If the communication is broadcast on a

.185730.1

1 telecommunications system, the information shall be both  
 2 written and spoken at the end of the communication, except that  
 3 if the disclosure statement is written for at least five  
 4 seconds of a thirty-second advertisement broadcast or ten  
 5 seconds of a sixty-second broadcast, a spoken disclosure is not  
 6 required. If the communication is broadcast on a  
 7 telecommunications system, the written disclosure statement  
 8 shall be printed in letters equal to or larger than four  
 9 percent of the vertical picture height.

10 C. This section does not apply to:

11 (1) a voter guide allowed by the federal  
 12 Internal Revenue Code of 1986 to be produced and distributed by  
 13 Section 501(c)(3) organizations; or

14 (2) communications appearing in a news story,  
 15 commentary or editorial distributed through print or electronic  
 16 media or the facilities of any broadcasting station, unless  
 17 such facilities or media are owned or controlled by any  
 18 political party, political committee or candidate."

19 **SECTION 3.** Section 1-19-26 NMSA 1978 (being Laws 1979,  
 20 Chapter 360, Section 2, as amended by Laws 2009, Chapter 67,  
 21 Section 1 and by Laws 2009, Chapter 68, Section 2) is amended  
 22 to read:

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

25 A. "advertising campaign" means an advertisement or

.185730.1

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. "campaign committee" means two or more persons  
13 authorized by a candidate to raise, collect or expend  
14 contributions on the candidate's behalf for the purpose of  
15 electing the candidate to office;

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

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

.185730.1

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

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

21                   G. "deliver" or "delivery" means to deliver by  
22 certified or registered mail, telecopier, electronic  
23 transmission or facsimile or by personal service;

24                   H. "election" means any primary, general or  
25 statewide special election in New Mexico and includes county

.185730.1

1 and judicial retention elections but excludes municipal, school  
2 board and special district elections;

3 I. "election year" means an even-numbered year in  
4 which an election covered by the Campaign Reporting Act is  
5 held;

6 J. "expenditure" means a payment, transfer or  
7 distribution or obligation or promise to pay, transfer or  
8 distribute any money or other thing of value for a political  
9 purpose, including payment of a debt incurred in an election  
10 campaign or pre-primary convention, but does not include the  
11 administrative or solicitation expenses of a political  
12 committee that are paid by an organization that sponsors the  
13 committee, but "expenditure" does not include communications  
14 from an organization to its own members or to persons who have  
15 requested that the organization send them information,  
16 including information conveyed on an organization's web site;

17 K. "express advocacy" means any communication that  
18 asks the recipient to vote for or against a specific candidate  
19 for state public office and that is distributed via broadcast,  
20 cable, satellite, print or electronic media to voters living in  
21 the district that the candidate seeks to represent;

22 L. "functional equivalent of express advocacy"  
23 means any communication that occurs thirty days before a  
24 primary election or sixty days before a general election and  
25 that, when taken as a whole, can have no reasonable

.185730.1



1 interpretation other than as advocating the election or defeat  
 2 of a candidate for state public office;

3 ~~[K.]~~ M. "person" means an individual or entity,  
 4 including a business entity, union or nonprofit organization;

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

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

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

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

24 ~~M.]~~ O. "political purpose" means influencing or  
 25 attempting to influence an election or pre-primary convention

.185730.1

1 ~~[including a constitutional amendment or other question~~  
2 ~~submitted to the voters]~~ by engaging in express advocacy or the  
3 functional equivalent of express advocacy or advocating for the  
4 passage or defeat of a constitutional amendment or other  
5 question submitted to the voters;

6 [N-] P. "prescribed form" means a form or  
7 electronic format prepared and prescribed by the secretary of  
8 state;

9 [O-] Q. "proper filing officer" means either the  
10 secretary of state or the county clerk as provided in Section  
11 1-19-27 NMSA 1978;

12 [P-] R. "public official" means a person elected to  
13 an office in an election covered by the Campaign Reporting Act  
14 or a person appointed to an office that is subject to an  
15 election covered by that act; ~~and~~

16 [Q-] S. "reporting individual" means every public  
17 official, candidate or treasurer of a campaign committee and  
18 every treasurer of a political committee; and

19 T. "state public office" means the office of  
20 governor, lieutenant governor, attorney general, state  
21 treasurer, state auditor, secretary of state, commissioner of  
22 public lands, public regulation commissioner, state senator,  
23 state representative, magistrate court judge, district court  
24 judge, court of appeals judge, supreme court judge or county  
25 commissioner."

1           SECTION 4. EFFECTIVE DATE.--The effective date of the  
2 provisions of this act is July 1, 2011.

3                               - 11 -  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

underscoring material = new  
~~[bracketed material]~~ = delete