

ENROLLED ACT NO. 3, SENATE

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2019 GENERAL SESSION

AN ACT relating to elections; modifying restriction on contribution of funds to political candidates for the general election as specified; modifying requirements for filing campaign reports as specified; requiring the filing of campaign reports relating to electioneering communications; amending campaign advertising provisions; repealing provisions relating to political speech by certain organizations; repealing archaic language; making conforming amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 22-25-101 by creating a new subsection (c), 22-25-102(c)(i)(B), (ii)(B) and (k)(i), 22-25-105(a), 22-25-106(a)(intro), (i), (iv), (b)(intro), (i), (c) through (e), (h)(intro), (i), (ii) and by creating new paragraphs (iv) through (vi), 22-25-107(a)(intro), (vii), (b), (c)(intro), (i) and (e), 22-25-110(a) and (b) and 22-29-501(f) are amended to read:

22-25-101. Definitions; statement of formation.

(c) As used in this chapter:

(i) "Electioneering communication" means, except as otherwise provided by paragraph (ii) of this subsection, any communication, including an advertisement, which is publicly distributed as a billboard, brochure, email, mailing, magazine, pamphlet or periodical, as the component of an internet website or newspaper or by the facilities of a cable television system, electronic communication network, internet streaming service, radio station, telephone or cellular system, television station or satellite system and which:

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(A) Refers to or depicts a clearly identified candidate for nomination or election to public office or a clearly identified ballot proposition and which does not expressly advocate the nomination, election or defeat of the candidate or the adoption or defeat of the ballot proposition;

(B) Can only be reasonably interpreted as an appeal to vote for or against the candidate or ballot proposition;

(C) Is made within thirty (30) calendar days of a primary election, sixty (60) calendar days of a general election or twenty-one (21) calendar days of any special election during which the candidate or ballot proposition will appear on the ballot; and

(D) Is targeted to the electors in the geographic area:

(I) The candidate would represent if elected; or

(II) Affected by the ballot proposition.

(ii) "Electioneering communication" does not mean:

(A) A communication made by an entity as a component of a newsletter or other internal communication of the entity which is distributed only to members or employees of the entity;

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(B) A communication consisting of a news report, commentary or editorial or a similar communication, protected by the first amendment to the United States constitution and article 1, section 20 of the Wyoming constitution, which is distributed as a component of an email, internet website, magazine, newspaper or periodical or by the facilities of a cable television system, electronic communication network, internet streaming service, radio station, television station or satellite system;

(C) A communication made as part of a public debate or forum that invites at least two (2) opposing candidates for public office or one (1) advocate and one (1) opponent of a ballot proposition or a communication that promotes the debate or forum and is made by or on behalf of the person sponsoring or hosting the debate or forum;

(D) The act of producing or distributing an electioneering communication.

(iii) "Independent expenditure" means an expenditure that is made without consultation or coordination with a candidate, candidate's campaign committee or the agent of a candidate or candidate's campaign committee and which expressly advocates the:

(A) Nomination, election or defeat of a candidate; or

(B) Adoption or defeat of a ballot proposition.

22-25-102. Contribution of funds or election assistance restricted; limitation on contributions; right to communicate; civil penalty.

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(c) Except as otherwise provided in this section, no individual other than the candidate, or the candidate's immediate family shall contribute directly or indirectly:

(i) To any candidate for statewide political office, or to any candidate for statewide political office's candidate's campaign committee:

(B) Except as otherwise provided in this subparagraph, no contribution for the general election may be given prior to the date for the primary election. This subparagraph shall not apply to any candidate unopposed in the primary election or nominated in accordance with W.S. 22-4-303 or 22-5-301.

(ii) To any candidate for nonstatewide political office, or to any candidate for nonstatewide political office's candidate's campaign committee:

(B) Except as otherwise provided in this subparagraph, no contribution for the general election may be given prior to the date for the primary election. This subparagraph shall not apply to any candidate unopposed in the primary election or nominated in accordance with W.S. 22-4-303 or 22-5-301.

(k) The prohibitions in this section shall not be construed to prohibit any organization of any kind including a corporation, partnership, trade union, professional association or civic, fraternal or religious group or other profit or nonprofit entity from:

(i) Exercising its first amendment rights to make cause electioneering communications or independent

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~~expenditures for speech expressly advocating the election or defeat of a candidate. For purposes of this subsection, "independent expenditure" means an expenditure that is made without consultation or coordination with a candidate or an agent of a candidate whose nomination or election the expenditure supports or whose opponent's nomination or election the expenditure opposes~~ to be made;

22-25-105. Campaign reporting forms; instructions and warning.

(a) The secretary of state shall prescribe the forms for reporting contributions and expenditures for primary, general and special election campaigns, together with written instructions for completing the form and a warning that violators are subject to criminal charges and ~~that a vacancy will exist~~ civil penalties if the forms are not completed and filed pursuant to law. ~~Until January 1, 2010,~~ The forms along with instructions and warning shall be distributed to the county clerk and shall be given made available, whether in electronic or paper form, by the county clerk to each person filing an application for nomination in his office and to each political action committee and candidate's campaign committee required to file with the county clerk. ~~Until January 1, 2010, the county clerk shall also distribute the reporting forms to the chairmen of the county party central committees.~~

22-25-106. Filing of campaign reports.

(a) Except as otherwise provided in subsections (g) and (j) of this section and in addition to other ~~statements~~ reports required by this subsection:

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(i) Every candidate, whether successful or not, shall file a fully an itemized statement of contributions and expenditures at least seven (7) days but not more than fourteen (14) days before any primary, general or special election. with information required by this subsection current to any day from the eighth day up to the fourteenth day before Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, general or special election, shall be filed as an amendment to the statement within ten (10) days after the election;

(iv) Statements Reports under this subsection shall set forth the full and complete record of contributions including cash, goods or services and except for statements of contributions required under paragraph (i) of this subsection, of actual and promised expenditures, including all identifiable expenses as set forth in W.S. 22-25-103. For purposes of this section, a contribution is reportable when it is known and in the possession of, or the service has been furnished to, the person or organization required to submit a statement of contributions or a statement of contributions and expenditures. The date of each contribution of twenty-five dollars (\$25.00) one hundred dollars (\$100.00) or more, any expenditure or obligation, the name of the person from whom received or to whom paid and the purpose of each expenditure or obligation shall be listed. All contributions under twenty-five dollars (\$25.00) one hundred dollars (\$100.00) shall be reported but need not be itemized. Should the accumulation of contributions from an individual a person exceed the twenty-five dollar (\$25.00) one hundred dollar (\$100.00) threshold, all contributions from that individual person shall be itemized. Contributions, expenditures and obligations itemized in a statement filed by a political action committee, a candidate's campaign committee or by a

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political party central committee need not be itemized in a candidate's statement ~~;~~ ~~except by total with a reference to the statement;~~

(b) Reports of itemized statements of ~~contributions and statements of~~ contributions and expenditures, and statements of termination shall be made with the appropriate filing officers specified under W.S. 22-25-107 and in accordance with the following:

(i) Except as otherwise provided in this section, any political action committee, ~~and~~ candidate's campaign committee, or any political action committee formed under the law of another state that contributes to a Wyoming political action committee or to a candidate's campaign committee, ~~any organization making an independent expenditure under W.S. 22-25-102(k), and any other organization supporting or opposing any ballot proposition~~ which expends any funds in any primary, general or special election shall file an itemized statement of contributions ~~at least seven (7) days before the election current to any day from the eighth day up to the fourteenth day before the election and shall also file a statement of contributions and expenditures within ten (10) days after a primary, general or special~~ and expenditures at least seven (7) days but not more than fourteen (14) days before any primary, general or special election. Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, general or special election, shall be filed as an amendment to the statement within ten (10) days after the election;

(c) All ~~statements-reports~~ reports required by subsection (b) of this section shall be signed by both the chairman and treasurer. The ~~statements-reports~~ shall set forth the full

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and complete record of contributions including cash, goods or services and ~~except for statements of contributions required under paragraph (i) of this subsection, of~~ actual and promised expenditures. The date of each contribution of ~~twenty-five dollars (\$25.00)~~ one hundred dollars (\$100.00) or more, any expenditure or obligation, the name of the person from whom received or to whom paid and the purpose of each expenditure or obligation shall be listed. Nothing in this subsection shall be construed to require the disclosure of the names of individuals paid to circulate an initiative or referendum petition. All contributions under ~~twenty-five dollars (\$25.00)~~ one hundred dollars (\$100.00) shall be reported but need not be itemized. Should the accumulation of contributions from ~~an individual~~ a person exceed the ~~twenty-five dollar (\$25.00)~~ one hundred dollar (\$100.00) threshold, all contributions from that ~~individual~~ person shall be itemized. If the contributions, expenditures or obligations were for more than one (1) candidate, the amounts attributable to each shall be itemized separately.

(d) The chairman of each political party central committee for the state or county, or an officer of the party designated by him, shall file an itemized statement of contributions of ~~twenty-five dollars (\$25.00)~~ one hundred dollars (\$100.00) or more, and any expenditures and obligations. The statement shall be filed within ten (10) days after a general or special election. The statement shall report all contributions, expenditures and obligations relating to campaign expenses, including normal operating expenses. All contributions under ~~twenty-five dollars (\$25.00)~~ one hundred dollars (\$100.00) shall be reported but need not be itemized. Should the accumulation of contributions from ~~an individual~~ a person exceed the ~~twenty-five dollar (\$25.00)~~ one hundred dollar (\$100.00) threshold, all contributions from that ~~individual~~ person

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shall be itemized. It shall attribute all campaign contributions, expenses and obligations to a specific candidate only if the campaign contributions, expenses and obligations can be specifically identified to that specific candidate to the exclusion of other candidates on the ticket. A copy of the statement shall be furnished to each candidate identified in the statement within ten (10) days after the general or special election.

(e) ~~Amendments to the statements required by this section may be filed at any time.~~ If inaccuracies are found in ~~the statements~~ a statement filed in accordance with this section or additional contributions or expenditures ~~occur or~~ become known after ~~the statements are filed~~ filing an amendment as required by paragraph (a)(i), (b)(i) or (h)(ii) of this section, amendments to the original statements or additional statements shall be filed within a reasonable time not to exceed ~~ninety (90)~~ thirty (30) days from the time the inaccuracies or additional contributions or expenditures became known. For purposes of this subsection, any net change less than fifty dollars (\$50.00) two hundred dollars (\$200.00) need not be reported.

(h) ~~In addition to any other report required by this section, An organization required by W.S. 22-25-110(c) to report expenditures shall report as follows that expends in excess of five hundred dollars (\$500.00) in any primary, general or special election to cause an independent expenditure or electioneering communication to be made shall file an itemized statement of contributions and expenditures with the appropriate filing office under W.S. 22-25-107. The statement shall:~~

(i) ~~The report shall~~ Identify the organization making causing the electioneering communication or

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independent expenditure to be made and the individual acting on behalf of the organization ~~in making~~ causing the communication or expenditure to be made, if applicable;

(ii) ~~The report shall~~ Be filed at least seven (7) days ~~before the next~~ but not more than fourteen (14) days ~~before any~~ primary, general or special election. ~~with information current to any day from the eighth day up to the fourteenth day before~~ Any contribution received or expenditure made after the statement has been filed, through the day of the election, whether a primary, general or special election, shall be filed as an amendment to the statement within ten (10) days after the election;

(iv) Only list those expenditures and contributions which relate to an independent expenditure or electioneering communication;

(v) Set forth the full and complete record of contributions which relate to an independent expenditure or electioneering communication, including cash, goods or services and actual and promised expenditures. The date of each contribution of one hundred dollars (\$100.00) or more, any expenditure or obligation, the name of the person from whom received or to whom paid and the purpose of each expenditure or obligation shall be listed. All contributions under one hundred dollars (\$100.00) shall be reported but need not be itemized. Should the accumulation of contributions from a person exceed the one hundred dollar (\$100.00) threshold, all contributions from that person shall be itemized;

(vi) Be signed by both the chairman and treasurer of the organization, if those positions are present in the

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organization, or by the person who caused the independent expenditure or electioneering communication to be made.

22-25-107. Where reports to be filed.

(a) All ~~statements~~reports required under this chapter shall be filed as follows:

(vii) Any political action committee or organization supporting or opposing any statewide initiative or referendum petition drive, any statewide ballot proposition or any candidate for statewide office and any organization ~~making~~causing an electioneering communication ~~or~~ an independent expenditure ~~under W.S. 22-25-102(k) to be made~~ and filing pursuant to W.S. 22-25-106(b)(i) or (h) shall file ~~statements~~reports required by this section with the secretary of state.

(b) ~~Statements~~Reports required to be filed at least seven (7) days before any primary, general or special election ~~and statements required to be filed after any primary, general or special election~~ shall be filed electronically.

(c) Any ~~statement~~reports required under this chapter to be filed with:

(i) The secretary of state, shall be filed electronically as provided under W.S. 9-2-2501; ~~if the secretary of state has adopted rules which allow for the electronic filing;~~

(e) ~~After December 31, 2009,~~ The secretary of state shall maintain a searchable database of reports filed pursuant to this chapter available to the public on or through the Internet, ~~the World Wide Web or a similar proprietary or~~

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~~common carrier electronic system~~ as defined in W.S. 9-2-1035(a)(iii). The secretary of state shall be responsible for the provision of training and instruction for filers on how to access and use the campaign finance electronic filing system. The training shall be for the purpose of educating filers about use of the system, and is not intended to assist filers with filing their reports.

22-25-110. Campaign advertising in communications media.

(a) It is unlawful for a candidate, political action committee, organization, including organizations ~~making expenditures pursuant to W.S. 22-25-102(k)~~ causing an electioneering communication or an independent expenditure to be made, candidate's campaign committee, or any political party central committee to pay for campaign literature or campaign advertising ~~in any communication medium without printing or announcing the candidate, organization or committee sponsoring the campaign advertising or campaign literature. The communications media in using the campaign advertising shall print or announce the name of the candidate, organization or committee paying for the advertising. without conspicuously displaying or speaking the following disclosure: "paid for by (name of candidate, organization or committee sponsoring the campaign literature or campaign advertising)". The disclosure set forth in this subsection shall be required in the following forms of campaign literature or campaign advertising:~~

(i) Printed campaign literature or campaign advertising including mailers, pamphlets, brochures, periodicals or billboards;

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(ii) Campaign advertising appearing on the radio or distributed through a telephone or cellular system or other solely auditory medium;

(iii) Campaign advertising appearing on television;

(iv) Paid placement of campaign advertising on the internet or other electronic communication network. This paragraph shall not apply when including the disclosure is impracticable due to size and text limitations in electronic campaign advertising, provided that the campaign advertising shall include a hyperlink to an internet website containing the disclosure.

(b) For purposes of this section, "campaign literature or campaign advertising" does not include small campaign items such as tickets, bumper stickers, pens, pencils, buttons, rulers, nail files, balloons and yard signs displaying the name of the candidate or office sought and any other items specified by rule of the secretary of state.

22-29-501. Political action committees.

(f) It is unlawful for a political action committee to pay for campaign literature or campaign advertising ~~in any communication medium~~ without ~~printing or announcing the committee sponsoring the campaign advertising or campaign literature. The communications media in using the campaign advertising shall print or announce the name of the committee paying for the advertising~~ displaying or speaking a disclosure in accordance with W.S. 22-25-110.

Section 2. W.S. 22-25-102(d), 22-25-106(a)(ii), (iii), (b)(iv), (f) and (h)(iii) and 22-25-110(c) are repealed.

ORIGINAL SENATE
FILE NO. SF0018

ENGROSSED

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Section 3. This act is effective July 1, 2019.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk