

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 118

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

AN ACT

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

A. A lobbyist shall not make a contribution to a candidate for nomination or election to
a state public office, a campaign committee of a candidate for state public office or a state-
or county-level political party committee.

B. The provisions of this section shall not:

(1) restrict a lobbyist from establishing a campaign committee for the lobbyist's
own campaign or from soliciting contributions for that campaign from persons not
prohibited from making contributions pursuant to this section; or

(2) preclude a lobbyist's employer from making contributions to a candidate or
expenditures for the benefit of a candidate."

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

"[NEW MATERIAL] PROSPECTIVE STATE CONTRACTORS AND STATE CONTRACTORS--
CONTRIBUTIONS FOR CANDIDATES AND CAMPAIGN COMMITTEES PROHIBITED.--

A. A principal of a state contractor or principal of a prospective state contractor shall not make a contribution to or solicit contributions on behalf of a candidate for nomination or election to a state public office, a campaign committee of a candidate for state public office or a state- or county-level political party committee.

B. The provisions of this section shall not restrict a principal of a state contractor or principal of a prospective state contractor from establishing a campaign committee for the principal's own campaign or from soliciting contributions for that campaign from persons not prohibited from making contributions by this section.

C. The provisions of this section supplement and do not limit the provisions of other statutes or agency rules that may further limit contributions from the principals of a prospective state contractor or the principals of a state contractor."

Section 3. Section 1-19-26 NMSA 1978 (being Laws 1979, Chapter 360, Section 2, as amended) is amended to read:

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

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

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

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

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

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

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

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

F. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value,

including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign, but "contribution" does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee;

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

H. "election" means any primary, general or statewide special election in New Mexico and includes county and judicial retention elections but excludes municipal, school board and special district elections;

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

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

K. "lobbyist" means:

(1) a person required to register as a lobbyist pursuant to the Lobbyist Regulation Act; and

(2) a person who was registered as a lobbyist or required to be registered as a lobbyist at any time in the twelve months prior to making a contribution;

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

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

(1) political parties, political action

committees or similar organizations composed of employees or members of any corporation, labor organization, trade or professional association or any other similar group that raises, collects, expends or contributes money or any other thing of value for a political purpose;

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

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

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

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

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

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

(2) an agent seeking a state contract for a state contractor or prospective state contractor; or

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

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

R. "prospective state contractor" means a person that responds to a solicitation for or seeks a state contract, until the contract has been entered into or solicitation canceled; but "prospective state contractor" does not include the state or a political subdivision of the

state or any full-time or part-time employee of the state or a political subdivision of the state, in that person's capacity as an employee of the state or a political subdivision of the state or a health care professional providing services under a medicaid provider agreement;

S. "public office" means an office that is subject to an election covered by the Campaign Reporting Act;

_____ [P.] T. "public officer" or "public official" means a person elected to an office in an election covered by the Campaign Reporting Act or a person appointed to [an] a public office; [that is subject to an election covered by that act; and

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

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

_____ W. "state contract" means an agreement or transaction with a state agency having a value of two hundred fifty thousand dollars (\$250,000) or more or a combination or series of such agreements or transactions having a value of two hundred fifty thousand dollars (\$250,000) or more in a fiscal year for:

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

_____ (2) the furnishing of any material, supplies

or equipment;

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

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

_____ (5) a licensing arrangement;

_____ (6) a loan or loan guarantee; or

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

_____ X. "state contractor" means a person that enters into a state contract, which person shall be deemed to be a state contractor until the termination of the contract; but "state contractor" does not include the state or a political subdivision of the state or any full-time or part-time employee of the state or a political subdivision of the state in that person's capacity as an employee of the state or political subdivision of the state or a health care professional providing services under a medicaid provider agreement;

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

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

Section 4. REPEAL.--Laws 2009, Chapter 68, Section 2 is repealed.

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

___Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is November 3, 2010.