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4

A Bill

HOUSE BILL 1005

5 By: Representatives Tucker, V. Flowers, D. Ferguson, Leding, Sabin, D. Whitaker
6 By: Senators K. Ingram, Elliott, L. Chesterfield, U. Lindsey, Maloch, E. Cheatham, S. Flowers
7

For An Act To Be Entitled

9 AN ACT TO REQUIRE REPORTING AND DISCLOSURE OF
10 ELECTIONEERING COMMUNICATIONS; TO RESTRICT THE AMOUNT
11 OF MONEY SPENT ON CAMPAIGN COMMUNICATIONS PRODUCED IN
12 COORDINATION WITH A CANDIDATE FOR OFFICE; TO AMEND
13 THE LAW CONCERNING CAMPAIGN FINANCE CONTRIBUTIONS;
14 AND FOR OTHER PURPOSES.
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Subtitle

18 TO REQUIRE REPORTING AND DISCLOSURE OF
19 ELECTIONEERING COMMUNICATIONS; AND TO
20 RESTRICT THE AMOUNT OF MONEY SPENT ON
21 CAMPAIGN COMMUNICATIONS PRODUCED IN
22 COORDINATION WITH A CANDIDATE FOR OFFICE.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 7-6-201 is amended to add additional
28 subdivisions to read as follows:

29 (19)(A) "Covered transfer" means a transfer or payment of funds
30 to another person if the person making the transfer or payment:

31 (i) Designates, requests, or suggests that the
32 transfer or payment be used for:

33 (a) Contributions, independent expenditures,
34 or electioneering communications; or

35 (b) Making a transfer to another person for
36 the purpose of making or paying for contributions, independent expenditures,



1 or electioneering communications;

2 (ii) Made the transfer or payment in response to a
3 solicitation or other request for a donation or payment for:

4 (a) Contributions, independent expenditures,
5 or electioneering communications; or

6 (b) Making a transfer to another person for
7 the purpose of making or paying for contributions, independent expenditures,
8 or electioneering communications;

9 (iii) Engaged in discussions or otherwise
10 communicated with the recipient of the transfer or payment regarding:

11 (a) Contributions, independent expenditures,
12 or electioneering communications; or

13 (b) Making a transfer to another person for
14 the purpose of making or paying for contributions, independent expenditures,
15 or electioneering communications;

16 (iv) Made one (1) or more independent expenditures,
17 expenditures for electioneering communications, or covered transfers in an
18 aggregate amount of five thousand dollars (\$5,000) or more during the two-
19 year period ending on the date of the transfer or payment or knew or had
20 reason to know that the person receiving the transfer or payment made such
21 expenditures or covered transfers in such an aggregate amount during that
22 two-year period; or

23 (v) Knew or had reason to know that the person
24 receiving the transfer or payment would make one (1) or more independent
25 expenditures, expenditures for electioneering communications, or covered
26 transfers in an aggregate amount of five thousand dollars (\$5,000) or more
27 during the two-year period beginning on the date of the transfer or payment.

28 (B) "Covered transfer" does not include:

29 (i) A transfer or payment made in a commercial
30 transaction in the ordinary course of trade or business conducted by the
31 person making the payment or transfer or in the form of investments made by
32 the person making the payment or transfer;

33 (ii) A transfer or payment made by a person who at
34 the time of the transfer or payment prohibited in writing the use of the
35 transfer or payment for contributions, independent expenditures, or
36 electioneering communications if the recipient of the transfer or payment

1 agreed in writing to the prohibition;

2 (iii) A transfer or payment between two (2) entities
3 if one (1) of the entities is an affiliate of the other entity or each of the
4 entities is an affiliate of the same entity, unless:

5 (a) One (1) of the entities is established for
6 the purpose of making contributions, independent expenditures, or
7 electioneering communications; or

8 (b) The recipient of the funds deposits the
9 funds into a segregated bank account used to make contributions, independent
10 expenditures, or electioneering communications; or

11 (iv) A payment that is otherwise required to be
12 reported as a contribution, electioneering communication, or independent
13 expenditure under this chapter.

14 (C) As used in subdivision (19)(B) of this section, an
15 entity is an affiliate if the entity is:

16 (i) A state or local entity associated with a
17 membership organization or the membership organization, including without
18 limitation a trade or professional association;

19 (ii) A national or international labor organization
20 or a state or local union of the national or international labor
21 organization;

22 (iii) An organization of national or international
23 unions or a state or local entities of the organization; or

24 (iv) A corporation or a wholly owned subsidiary of
25 the corporation;

26 (20)(A) "Electioneering communication" means any political
27 advertisement or campaign communication:

28 (i) That is in any form, including without
29 limitation the following medias:

30 (a) Broadcast;

31 (b) Satellite;

32 (c) Cable;

33 (d) Electronic;

34 (e) Digital;

35 (f) Written;

36 (g) Print;

- 1 (h) Graphic; and
2 (i) Design;
3 (ii) That is publicly distributed;
4 (iii) Except as provided in subdivision (19)(B) of
5 this section, that the person or committee making the advertisement or
6 communication pays money for the production or dissemination of the
7 advertisement or communication;
8 (iv) That refers to a clearly identified candidate
9 for public office;
10 (v) That is targeted to the relevant electorate for
11 that candidate; and
12 (vi) For which the only reasonable interpretation of
13 the advertisement or communication is that the advertisement or communication
14 is an attempt to influence a vote for or against a specific candidate or
15 specific set of candidates.
16 (B)(i) Payment of money under subdivision (19)(A)(iii) of
17 this section does not include:
18 (a) Utility payments for telephone or Internet
19 service made by the person or committee making the advertisement or
20 communication; or
21 (b) The costs of producing copies of flyers,
22 handbills, or other documents to be distributed by hand by one (1) or more
23 volunteers.
24 (ii) Payment of money under subdivision (19)(A)(iii)
25 of this section includes without limitation money paid to a person in
26 exchange for the distribution by hand of printed advertisement or printed
27 communication such as door hangers or push cards.
28 (C) In making a determination under subdivision (19)(A)(v)
29 of this section, the Arkansas Ethics Commission shall consider:
30 (i) Whether the advertisement or communication
31 offers preferential support for or criticism of a clearly identified
32 candidate for office;
33 (ii) The proximity between the date of the
34 advertisement or communication and the date of the election for the clearly
35 identified candidate for office; and
36 (iii) Any other factor the commission deems relevant

1 to its determination.

2 (D) "Electioneering communication" does not include any
3 advertisement or communication that:

4 (i) Unless the facilities are owned or controlled by
5 any political party, political committee, or candidate, appears in a news
6 story, commentary, or editorial distributed through the facilities of any:

7 (a) Broadcast, cable, satellite radio, or
8 television station; or

9 (b) Newspaper, magazine, print media, or
10 Internet media business;

11 (ii) Constitutes an independent expenditure that is
12 reported as required under this subchapter;

13 (iii) Constitutes a candidate debate or forum
14 conducted, or that solely promotes such a debate or forum and is made by or
15 on behalf of the person sponsoring the debate or forum;

16 (iv) Is disseminated as a flyer, handbill, or other
17 document distributed by hand by one (1) or more volunteers;

18 (v) Is disseminated by an organization to the
19 organization's own membership or to persons who have requested to receive
20 communications from the organization for the purpose of indicating candidates
21 whom the organization supports in an upcoming election; or

22 (vi) Is disseminated by a person or committee on the
23 official website maintained by the person or committee making the
24 advertisement or communication;

25 (21) "Refers to a clearly identified candidate" means that the
26 candidate's name, nickname, photograph, or drawing appears, or the identity
27 of the candidate is otherwise apparent through an unambiguous reference such
28 as "the Governor", "your county judge", or "the incumbent", or through an
29 unambiguous reference to his or her status as a candidate such as "the
30 Republican nominee for Governor" or "the Democratic candidate for Secretary
31 of State in the State of Arkansas"; and

32 (22) "Targeted to the relevant electorate" means:

33 (A) If the advertisement or communication is publicly
34 distributed by a broadcast, cable, satellite radio, or television station or
35 by a newspaper, magazine, or other print media, the advertisement or
36 communication can be seen, heard, or read:

1 (i) By at least twenty-five thousand (25,000)
2 viewers, listeners, or readers in the state, in the case of a candidate for
3 statewide office;

4 (ii) By at least ten percent (10%) of a county,
5 municipality, or district population, in the case of a candidate for a county
6 office, municipal office, school district board of directors, or other
7 district office that is not the Senate or the House of Representatives; or

8 (iii) By at least two thousand five hundred (2,500)
9 viewers, listeners, or readers in the district, in the case of a candidate
10 for the Senate or the House of Representatives;

11 (B) If the advertisement or communication is publicly
12 distributed by direct mail, electronic mail, telephone, or by hand by a
13 person who has been paid to distribute the advertisement or communication,
14 the advertisement or communication is sent to or distributed to:

15 (i) At least two thousand five hundred (2,500)
16 individuals in the state, in the case of a candidate for statewide office;

17 (ii) At least one percent (1%) of a county,
18 municipality, or district population, in the case of a candidate for a county
19 office, municipal office, school district board of directors, or other
20 district office that is not the Senate or the House of Representatives; or

21 (iii) At least two hundred and fifty (250)
22 individuals, in the case of a candidate for the Senate or the House of
23 Representatives; or

24 (C) If the advertisement or communication is publicly
25 distributed by Internet website, the advertisement or communication is
26 intended to be viewed by:

27 (i) At least two thousand five hundred (2,500)
28 individuals in the state, in the case of a candidate for statewide office;

29 (ii) At least one percent (1%) of a county,
30 municipality, or district population, in the case of a candidate for a county
31 office, municipal office, school district board of directors, or other
32 district office that is not the Senate or the House of Representatives; or

33 (iii) At least two hundred and fifty (250)
34 individuals, in the case of a candidate for the Senate or the House of
35 Representatives.

36

1 SECTION 2. Arkansas Code § 7-6-214 is amended to read as follows:
2 7-6-214. Publication of reports.

3 (a)(1) Upon proper filing, the information required in §§ 7-6-203 ~~and~~,
4 7-6-207 – 7-6-210, 7-6-230, and 7-6-232 shall constitute a public record and
5 shall be available within twenty-four (24) hours of the reporting deadline to
6 all interested persons and the news media.

7 (2) The Secretary of State is the official custodian of the
8 records that are required to be:

9 (A) Filed with the Secretary of State; and

10 (B) Maintained under §§ 7-6-203 ~~and~~, 7-6-207, 7-6-230, and
11 7-6-232.

12 (b) The Secretary of State shall post reports of contributions
13 required in §§ 7-6-203 ~~and~~, 7-6-207, 7-6-230, and 7-6-232 on his or her
14 official website.

15
16 SECTION 3. Arkansas Code Title 7, Chapter 6, Subchapter 2, is amended
17 to add additional sections to read as follows:

18 7-6-230. Disclosure statement for electioneering communications.

19 (a)(1) A person shall file a disclosure statement with the Secretary
20 of State if:

21 (A) The person has made one (1) or more electioneering
22 communications in an aggregate amount exceeding one thousand dollars (\$1,000)
23 in one (1) calendar year; and

24 (B) The electioneering communications under subdivision
25 (a)(1)(A) of this section concern the candidacy for the same public office.

26 (2)(A) The first disclosure statement filed under this section
27 shall be filed within three (3) days of the first date of public distribution
28 of the electioneering communication that met the one-thousand-dollar-
29 threshold amount but no later than the close of business on the day before
30 the preferential primary election, general primary election, general
31 election, runoff election, or special election.

32 (B) Subsequent disclosure statements under this section
33 shall:

34 (i) Be filed:

35 (a) No later than two (2) weeks after the
36 filing of the most recent disclosure statement under this section for any

1 two-week period in which one (1) or more electioneering communications are
2 made but no later than the close of business on the day before the
3 preferential primary election, general primary election, general election,
4 runoff election, or special election; or

5 (b) If more than two (2) weeks has passed
6 since the most recent disclosure statement was filed under this section,
7 within three (3) days of the first date of public distribution of the
8 subsequent electioneering communication but no later than the close of
9 business on the day before the preferential primary election, general primary
10 election, general election, runoff election, or special election; and

11 (ii) Not include disclosure of electioneering
12 communications that have been previously reported under this section.

13 (b)(1) The statement shall disclose the following:

14 (A) The name and address of the person who made the
15 disbursement or who executed a contract to make a disbursement, or if the
16 person is not an individual, the name and address of the person's principal
17 place of business;

18 (B) The name and address of any person sharing or
19 exercising direction or control over the activities of the person who made
20 the disbursement or who executed a contract to make a disbursement;

21 (C) The name and address of the custodian of the books and
22 accounts from which the disbursement was made;

23 (D) An itemization of each expenditure made, disbursement
24 made, or amount agreed to be paid by contract to make a disbursement, that
25 amounts to two hundred fifty dollars (\$250) or more and is made or agreed to
26 during the period covered by the statement, which shall include:

27 (i) The amount of the expenditure, disbursement, or
28 amount agreed to be paid;

29 (ii) The date the disbursement or expenditure was
30 made, or in the case of an amount agreed to be paid, the date the contract to
31 make a disbursement was executed; and

32 (iii) The name and address of the person to whom the
33 expenditure or disbursement was made or, in the case of an amount agreed to
34 be paid, the person with whom the contract to make a disbursement was
35 executed;

36 (E) A list of all employees and independent contractors

1 and the amounts the employees and independent contractors were paid during
2 the period covered by the statement;

3 (F) A list of all expenditures required to be disclosed
4 under this section by category, including without limitation the following
5 categories:

6 (i) Television;

7 (ii) Radio;

8 (iii) Direct mail;

9 (iv) Internet website that is not the official
10 website maintained by the person or committee making the communication;

11 (v) Electronic mail;

12 (vi) Telephone; and

13 (vii) Newspaper, magazine, or other print media;

14 (G) The aggregate amount of all expenditures made,
15 disbursements made, or amounts agreed to be paid by contract to make a
16 disbursement that:

17 (i) Is not disclosed under subdivision (b)(1)(D) of
18 this section; and

19 (ii) Was made during the period covered by the
20 statement;

21 (H) All clearly identified candidates referred to in the
22 electioneering communication and the elections in which they are candidates;

23 (I) The disclosure date;

24 (J) Except as provided in subsection (f) of this section,
25 if the disbursements were paid exclusively from a segregated bank account
26 established to pay for electioneering communications or other communications
27 required to be reported under this subchapter, including without limitation
28 independent expenditures, a list of the contributions made in an aggregate
29 amount of one hundred dollars (\$100) or more to the segregated bank account
30 aggregating since the first day of the preceding calendar year that includes:

31 (i) If the person making the qualifying
32 contributions is an individual, the name and address of the individual making
33 the qualifying contributions;

34 (ii) If the person making the qualifying
35 contributions is not an individual:

36 (a) The name and address of the entity; and

1 (b) A list of each person sharing or
2 exercising direction or control over the entity, including at least one (1)
3 individual;

4 (iii) If the person making the qualifying
5 contributions is doing so with funds contributed by another person, a
6 separate list titled "Second Degree Contributors (Segregated Account)" that
7 indicates:

8 (a) The name and address of each person from
9 whom each person listed as a contributor under subdivisions (b)(1)(J)(i) and
10 (ii) of this section received contributions since the first day of the
11 preceding calendar year, aggregating more than five hundred dollars (\$500),
12 together with the date and amount of each contribution;

13 (b) The name of any person sharing or
14 exercising direction or control of any person listed under subdivision
15 (b)(1)(J)(iii)(a) of this section, including at least one (1) individual;

16 (c) If the person making the contribution
17 listed under subdivision (b)(1)(J)(iii)(a) of this section is doing so with
18 funds contributed by another person, a separate list titled "Third Degree
19 Contributors (Segregated Account)" that indicates:

20 (1) The name and address of each person
21 from whom each person identified as a contributor on the list titled "Second
22 Degree Contributors (Segregated Account)" under subdivision (b)(1)(J)(iii)(a)
23 received contributions since the first day of the preceding calendar year,
24 aggregating more than one thousand dollars (\$1,000), together with the date
25 and amount of each contribution; and

26 (2) The name of any person sharing or
27 exercising direction or control of any person listed under subdivision
28 (b)(1)(J)(iii)(c)(1) of this section, including at least one (1) individual;

29 (iv) The dates of the qualifying contributions;

30 (v) The amount of each contribution; and

31 (vi) The total aggregate amount contributed;

32 (K) Except as provided in subsection (f) of this section,
33 if the disbursements were not paid exclusively from a segregated bank account
34 established to pay for electioneering communications or other communications
35 required to be reported under this subchapter, including without limitation
36 independent expenditures, a list of the contributions made in an aggregate

1 amount of two hundred and fifty dollars (\$250) or more to the person making
2 the electioneering communication, aggregating since the first day of the
3 preceding calendar year that includes:

4 (i) If the person making the qualifying
5 contributions is an individual, the name and address of the individual making
6 the qualifying contributions;

7 (ii) If the person making the qualifying
8 contributions is not an individual:

9 (a) The name and address of the entity; and

10 (b) A list of each person sharing or
11 exercising direction or control over the entity, including at least one (1)
12 individual;

13 (iii) If the person making the qualifying
14 contributions is doing so with funds contributed by another person, a
15 separate list titled "Second Degree Contributors (Nonsegregated Account)"
16 that indicates:

17 (a) The name and address of each person from
18 whom each person listed as a contributor under subdivisions (b)(1)(K)(i) and
19 (ii) of this section received contributions since the first day of the
20 preceding calendar year aggregating more than five hundred dollars (\$500),
21 together with the date and amount of each contribution;

22 (b) The name of any person sharing or
23 exercising direction or control of any person listed under subdivision
24 (b)(1)(K)(iii)(a) of this section, including at least one (1) individual; and

25 (c) If the person making the contribution
26 listed under subdivision (b)(1)(K)(iii)(a) of this section is doing so with
27 funds contributed by another person, a separate list titled "Third Degree
28 Contributors (NonSegregated Account)" that indicates:

29 (1) The name and address of each person
30 from whom each person identified as a contributor in the list titled "Second
31 Degree Contributors (Non-segregated Account)" under subdivision
32 (b)(1)(K)(iii)(a) received contributions since the first day of the preceding
33 calendar year, aggregating more than one thousand dollars (\$1,000), together
34 with the date and amount of each contribution; and

35 (2) The name of any person sharing or
36 exercising direction or control of any person listed under subdivision

1 (b)(1)(K)(iii)(c)(1) of this section, including at least one (1) individual;
 2 (iv) The dates of the qualifying contributions;
 3 (v) The amount of each contribution; and
 4 (vi) The total aggregate amount contributed; and
 5 (L) A list of each item contributed to producing, airing,
 6 mailing, printing, or distributing the electioneering communication that is
 7 not money and that has a value of more than two hundred fifty dollars (\$250)
 8 that includes:

9 (i) A description of the item;
 10 (ii) The date of receipt of the item;
 11 (iii) The fair market value of the item;
 12 (iv) If the person that contributes the item is an
 13 individual, the name and address of the individual; and
 14 (v) If the person that contributes the item is a
 15 proprietorship, firm, partnership, joint venture, syndicate, labor union,
 16 business trust, company, corporation, association, committee, political
 17 party, county political party committee, legislative caucus committee, or
 18 other organization or group of persons acting in concert:
 19 (a) The name and address of the entity;
 20 (b) The name and address of a person with
 21 control over the entity or with authority to act on behalf of the entity,
 22 including at least one (1) individual; and
 23 (c) The name and address of the person who
 24 contributed the item to the entity.

25 (2) The amounts of the disclosures under this section shall
 26 include without limitation:

27 (A) The direct costs of producing, airing, mailing,
 28 printing, or distributing an electioneering communication;

29 (B) Costs charged by a vendor, including without
 30 limitation:

31 (i) Studio rental time;
 32 (ii) Staff salaries; and
 33 (iii) Cost of video or audio recording or written
 34 media and talent;

35 (C) Cost of airtime on broadcast, cable, or satellite
 36 radio and television stations, studio time, material costs, and the charges

1 for a broker to purchase the airtime; and

2 (D) Cost of advertising space for print or electronic
3 media.

4 (c)(1) The statement under this section shall be filed with an
5 affidavit of the person that made the electioneering communication verifying
6 that to the best of the person's knowledge, the information provided in the
7 statement is a complete, true, and accurate financial statement of the
8 person's distributions made, expenditures made, amounts agreed to be paid,
9 and contributions and nonmonetary items received.

10 (2) If the person filing the statement under this section is not
11 an individual, the affiant shall be an officer or member of the person.

12 (d) A statement under this section is not required to disclose any
13 information that is otherwise reported under this chapter.

14 (e) A person who makes an electioneering communication or who accepts
15 a contribution for the purpose of making an electioneering communication
16 shall maintain records for a period of four (4) years.

17 (f)(1) If the person making the disbursement required to be reported
18 under this section is a multistate organization and the funds were dispersed
19 from an account segregated for the purpose of making electioneering
20 communications in Arkansas, then the disclosure statement shall disclose only
21 the required information concerning the funds that are received and
22 distributed for electioneering communications in Arkansas.

23 (2) If the person making the disbursement required to be
24 reported under this section is a multistate organization and the funds were
25 dispersed from a nonsegregated bank account, then the disclosure statement
26 shall disclose the information required under subdivision (b)(1)(K) of this
27 section concerning the contributions to the nonsegregated bank account.

28 (g) As used in this section, "person sharing or exercising direction
29 or control" means an individual who is an officer, director, executive
30 director or its equivalent, partner, and in the case of unincorporated
31 organizations, an owner of the entity or person making the disbursement for
32 the electioneering communication.

33
34 7-6-231. Coordinated communications.

35 (a)(1) A coordinated communication is an in-kind contribution to the
36 candidate or political party who or to the candidate or political party whose

1 authorized committee or agent cooperated, consulted, requested, suggested, or
2 acted in concert with:

3 (A) The person making the coordinated communication or his
4 or her authorized agent; or

5 (B) The person making the expenditure for the coordinated
6 communication or his or her authorized agent.

7 (2) The in-kind contribution under subdivision (a)(1) of this
8 section shall be subject to the contribution limits set forth under § 7-6-
9 203.

10 (b)(1) As used in this section, "coordinated communication" means an
11 electioneering communication or communication funded by expenditures that
12 contain express advocacy or the functional equivalent of express advocacy
13 made:

14 (A) In cooperation or consultation between:

15 (i) A candidate or his or her authorized committee
16 or agent; and

17 (ii) The person making the:

18 (a) Communication or his or her authorized
19 agent; or

20 (b) Expenditure for the communication or his
21 or her authorized agent;

22 (B) In cooperation or consultation between:

23 (i) A political party or its authorized agent; and

24 (ii) The person making the:

25 (a) Communication or his or her authorized
26 agent; or

27 (b) Expenditure for the communication or his
28 or her authorized agent;

29 (C) In concert with or at the request or suggestion of a
30 candidate or his or her authorized committee or agent; or

31 (D) In concert with or at the request or suggestion of a
32 political party or its authorized agent.

33 (2) "Coordinated communication" does not include:

34 (A) A candidate's or a political party committee's
35 response to an inquiry about that candidate's or that political party
36 committee's positions on legislative or policy issues unless the response or

1 the inquiry concerns the plans, projects, activities, or needs of the
2 campaign;

3 (B) Unless the public communication promotes, supports,
4 attacks, or opposes the endorsing candidate or another candidate who seeks
5 election to the same office the endorsing candidate is seeking, a public
6 communication:

7 (i) In which a candidate endorses another candidate;
8 and

9 (ii) That is made by the endorsing candidate;

10 (C) Unless the public communication promotes, supports,
11 attacks, or opposes the soliciting candidate or another candidate who seeks
12 election to the same office the soliciting candidate is seeking, a public
13 communication:

14 (i) In which a candidate solicits funds:

15 (a) For another candidate;

16 (b) For a political committee; or

17 (c) On behalf of an organization concerning a
18 state or local election in a manner corresponding to the circumstances set
19 forth in 11 C.F.R. § 300.65; and

20 (ii) That is made by the soliciting candidate; or

21 (D) A public communication in which a candidate is clearly
22 identified only in his or her capacity as the owner or operator of a business
23 that existed prior to the candidacy if:

24 (i) The medium, timing, content, and geographic
25 distribution of the public communication are consistent with public
26 communications made prior to the candidacy; and

27 (ii) The public communication does not promote,
28 support, attack, or oppose the communicating candidate or another candidate
29 who seeks election to the same office the communicating candidate is seeking.

30 (c)(1) In making a determination as to whether a communication is a
31 coordinated communication, the Arkansas Ethics Commission shall consider the
32 following without limitation:

33 (A) Whether the coordinated communication was paid for, in
34 whole or in part, by a person other than the candidate or his or her agent,
35 the candidate's authorized committee or its agent, or a political party or
36 its agent;

1 (B) Whether the content of the coordinated communication
2 is a public communication that republishes, disseminates, or distributes, in
3 whole or in part, campaign materials prepared by a candidate or a candidate's
4 campaign committee; and

5 (C) Whether the conduct of the coordinated communication
6 meets one (1) or more of the following standards:

7 (i) The coordinated communication was created,
8 produced, or distributed at the request or suggestion of the candidate or his
9 or her agent, the candidate's committee or its agent, or the political party
10 or its agent;

11 (ii) The coordinated communication was created,
12 produced, or distributed at the request or suggestion of the person paying
13 for the communication, and the candidate or his or her agent, the candidate's
14 committee or its agent, or the political party or its agent approves the
15 request or suggestion;

16 (iii) The candidate or his or her agent, the
17 candidate's committee or its agent, or the political party or its agent was
18 materially involved in decisions regarding the content, intended audience,
19 means or mode of the coordinated communication, specific media outlet used,
20 timing, frequency, size, or prominence of the coordinated communication; or

21 (iv) The coordinated communication was created,
22 produced, or distributed after one (1) or more substantial discussions about
23 the communication between the person paying for the communication or the
24 employees or agents of that person and;

25 (a) The candidate or his or her agent;

26 (b) The candidate's committee or its agent; or

27 (c) The political party or its agent.

28 (2) As used in this subsection, the "candidate" means the
29 candidate who is positioned to benefit from the coordinated communication,
30 whether the coordinated communication promotes that candidate or criticizes
31 his or her opponent.

32 (d)(1) A person or an entity is an authorized agent of a candidate, a
33 candidate's committee, or a political party under this section if the person
34 or entity:

35 (A) Has actual authorization, either expressed or implied,
36 from a specific principal to engage in specific activities; and

1 (B) Engages in the activities on behalf of that specific
2 principal.

3 (2) If the activities carried out by an authorized agent would
4 result in a coordinated communication if carried out directly by the
5 candidate, authorized committee staff, or a political party official, the
6 activities of the authorized agent result in a coordinated communication.

7
8 7-6-232. Disclosure statement for covered transfers.

9 (a)(1) A person shall file a disclosure statement with the Secretary
10 of State if the person has made one (1) or more covered transfers in an
11 aggregate amount exceeding one thousand dollars (\$1,000) in one (1) calendar
12 year.

13 (2)(A) If a person making a covered transfer has written
14 confirmation from the person making the electioneering communication that
15 information to be contained in the disclosure statement otherwise required by
16 this section has previously been filed or will be filed in a disclosure
17 statement under § 7-6-230, then the person making the covered transfer is not
18 required to include that information in the disclosure statement required by
19 this section.

20 (B) If all information to be included in a disclosure
21 statement required by this section has been or will be included in a
22 disclosure statement filed pursuant to § 7-6-230, and the person making the
23 covered transfer has written confirmation of that disclosure from the person
24 making the electioneering communication, then the person making the covered
25 transfer is not required to file a disclosure statement under this section.

26 (b)(1) The first disclosure statement filed under this section shall
27 be filed within three (3) days of payment of the covered transfer that met
28 the one-thousand-dollar-threshold amount but no later than the close of
29 business on the day before the preferential primary election, general primary
30 election, general election, runoff election, or special election.

31 (2) Subsequent disclosure statements under this section shall:

32 (A) Be filed:

33 (i) No later than two (2) weeks after the filing of
34 the most recent disclosure statement under this section for any two-week
35 period in which one (1) or more covered transfers are made but no later than
36 the close of business on the day before the preferential primary election,

1 general primary election, general election, runoff election, or special
2 election; or

3 (ii) If more than two (2) weeks has passed since the
4 most recent disclosure statement was filed under this section, within three
5 (3) days of the next payment of the covered transfer but no later than the
6 close of business on the day before the preferential primary election,
7 general primary election, general election, runoff election, or special
8 election; and

9 (B) Not include disclosure of covered transfers that have
10 been previously reported.

11 (c) The statement shall disclose the following:

12 (1) The name and address of any person who made the covered
13 transfer, or if the person is not an individual, the name and address of the
14 person's principal place of business;

15 (2) The name and address of any person sharing or exercising
16 direction or control over the activities of the person who made the covered
17 transfer including at least one individual;

18 (3) The name and address of the custodian of the books and
19 accounts from which the covered transfer was made;

20 (4) An itemization of each covered transfer made, or agreed to
21 be made by contract, that amounts to two hundred fifty dollars (\$250) or more
22 and is made or agreed to be made during the period covered by the statement,
23 which shall include:

24 (A) The amount of the covered transfer;

25 (B) The date of the covered transfer, or in the case of a
26 covered transfer agreed to be made, the date the agreement was executed; and

27 (C) The name and address of the person to whom the covered
28 transfer was made, or in the case of a covered transfer agreed to be made,
29 the person to whom the covered transfer was agreed to be made;

30 (5) The aggregate amount of all covered transfers made, or agreed
31 to be made, that:

32 (A) Is not disclosed under subdivision (c)(4) of this
33 section; and

34 (B) Was made during the period covered by the statement;

35 (6) Except as provided in subsection (g) of this section, if the
36 covered transfer was paid exclusively from a segregated bank account

1 established to pay for expenditures or communications required to be reported
2 under this subchapter, a list of the contributions made in an aggregate
3 amount of two hundred fifty dollars (\$250) or more to the segregated bank
4 account aggregating since the first day of the preceding calendar year that
5 includes:

6 (A) If the person making the qualifying contributions is
7 an individual, the name and address of the individual making the qualifying
8 contributions;

9 (B) If the person making the qualifying contributions is
10 not an individual:

11 (i) The name and address of the entity; and

12 (ii) A list of each person sharing or exercising
13 direction or control over the entity, including at least one (1) individual;

14 (C) If the person making the qualifying contributions is
15 doing so with funds contributed by another person, a separate list titled
16 "Second Degree Contributors (Segregated Account)" that indicates:

17 (i) The name and address of each person from whom
18 each person listed as a contributor under subdivisions (c)(6)(A) and (B) of
19 this section received contributions since the first day of the preceding
20 calendar year aggregating more than one thousand dollars (\$1,000), together
21 with the date and amount of each contribution;

22 (ii) The name of any person sharing or exercising
23 direction or control of any person listed under subdivision (c)(6)(C)(i) of
24 this section, including at least one (1) individual; and

25 (iii) If the person making the contribution listed
26 under subdivision (c)(6)(C)(i) of this section is doing so with funds
27 contributed by another person, a separate list titled "Third Degree
28 Contributors (Segregated Account)" that indicates:

29 (a) The name and address of each person from
30 whom each person identified as a contributor in the list titled "Second
31 Degree Contributors (Segregated Account)" under subdivision (c)(6)(C)(i) of
32 this section received contributions since the first day of the preceding
33 calendar year, aggregating more than three thousand dollars (\$3,000),
34 together with the date and amount of each contribution; and

35 (b) The name of any person sharing or
36 exercising direction or control of any person listed under subdivision

1 (c)(6)(C)(iii)(a) of this section, including at least one (1) individual;

2 (D) The dates of the qualifying contributions;

3 (E) The amount of each contribution; and

4 (F) The total aggregate amount contributed; and

5 (7) Except as provided in subsection (g) of this section, if the
6 covered transfer was not paid exclusively from a segregated bank account
7 established to pay for electioneering communications or other communications
8 required to be reported under this subchapter, including without limitation
9 independent expenditures, a list of the contributions made in an aggregate
10 amount of five hundred dollars (\$500) or more to the person making the
11 electioneering communication aggregating since the first day of the preceding
12 calendar year that includes:

13 (A) If the person making the qualifying contributions is
14 an individual, the name and address of the individual making the qualifying
15 contributions;

16 (B) If the person making the qualifying contributions is
17 not an individual:

18 (i) The name and address of the entity; and

19 (ii) A list of each person sharing or exercising
20 direction or control over the entity, including at least one (1) individual;

21 (C) If the person making the qualifying contributions is
22 doing so with funds contributed by another person, a separate list titled
23 "Second Degree Contributors (Nonsegregated Account)" that indicates:

24 (i) The name and address of each person from whom
25 each person listed as a contributor under subdivisions (c)(7)(A) and (B) of
26 this section received contributions since the first day of the preceding
27 calendar year aggregating more than one thousand dollars (\$1,000), together
28 with the date and amount of each contribution;

29 (ii) The name of any person sharing or exercising
30 direction or control of any person listed under subdivision (c)(7)(C)(i) of
31 this section, including at least one (1) individual; and

32 (iii) If the person making the contribution listed
33 under subdivision (c)(7)(C)(i) of this section is doing so with funds
34 contributed by another person, a separate list titled "Third Degree
35 Contributors (Nonsegregated Account)" that indicates:

36 (a) The name and address of each person from

1 whom each person listed as a contributor in the list titled "Second Degree
2 Contributors (Nonsegregated Account)" under subdivision (c)(7)(C)(i) of this
3 section received contributions since the first day of the preceding calendar
4 year aggregating more than three thousand dollars (\$3,000), together with the
5 date and amount of each contribution; and

6 (b) The name of any person sharing or
7 exercising direction or control of any person listed under subdivision
8 (c)(7)(C)(iii)(a) of this section, including at least one (1) individual;

9 (D) The dates of the qualifying contributions;

10 (E) The amount of each contribution; and

11 (F) The total aggregate amount contributed.

12 (d)(1) A statement under this section shall be filed with an affidavit
13 of the person that made the covered transfer verifying that to the best of
14 the person's knowledge, the information provided in the statement is a
15 complete, true, and accurate financial statement of the person's covered
16 transfers.

17 (2) If the person filing the statement under this section is not
18 an individual, the affiant shall be an officer of the person.

19 (e) A statement under this section is not required to disclose any
20 information that is otherwise reported under this chapter.

21 (f) A person who makes a covered transfer or who accepts a
22 contribution for the purpose of making a covered transfer shall maintain
23 records for a period of four (4) years.

24 (g)(1) If the person making the disbursement required to be reported
25 under this section is a multistate organization and the funds were dispersed
26 from an account segregated for the purpose of ultimately making
27 electioneering communications in Arkansas, then the disclosure statement
28 shall disclose only the required information concerning the funds that are
29 received and distributed for the purpose of making electioneering
30 communications in Arkansas.

31 (2) If the person making the disbursement required to be
32 reported under this section is a multistate organization and the funds were
33 dispersed from a nonsegregated bank account, then the disclosure statement
34 shall disclose the information required under subdivision (c)(7) of this
35 section concerning the contributions to the nonsegregated bank account.

36 (h) As used in this section, "person sharing or exercising direction

1 or control" means an individual who is an officer, director, executive
2 director or its equivalent, partner, and in the case of unincorporated
3 organizations, an owner of the entity or person making the disbursement for
4 the electioneering communication.

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