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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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24

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;

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

14 (v) A transfer made from a collecting agent or a
15 vendor to an account of a recipient established to collect contributions on
16 behalf of the recipient, if the collecting agent or vendor transfers the
17 funds within fourteen (14) days of receipt and the recipient fully reports
18 the contribution of the original contributor in compliance with this
19 subchapter.

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

22 (i) A state or local entity associated with a
23 membership organization or the membership organization, including without
24 limitation a trade or professional association;

25 (ii) A national or international labor organization
26 or a state or local union of the national or international labor
27 organization;

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

30 (iv) A corporation and its wholly owned subsidiary;
31 or

32 (v) A nonprofit organization and the related state
33 and local entities of the organization.

34 (20)(A) "Electioneering communication" means any political
35 advertisement or campaign communication:

36 (i) That is in any form, including without

1 limitation the following medias:

2 (a) Broadcast;

3 (b) Satellite;

4 (c) Cable;

5 (d) Electronic;

6 (e) Digital;

7 (f) Written;

8 (g) Print;

9 (h) Graphic; and

10 (i) Design;

11 (ii) That is publicly distributed;

12 (iii) Except as provided in subdivision (20)(B) of
13 this section, that the person or committee making the advertisement or
14 communication pays money for the production or dissemination of the
15 advertisement or communication;

16 (iv) That refers to a clearly identified candidate
17 for public office;

18 (v) That is targeted to the relevant electorate for
19 that candidate; and

20 (vi) For which the only reasonable interpretation of
21 the advertisement or communication is that the advertisement or communication
22 is an attempt to influence a vote for or against a specific candidate or
23 specific set of candidates.

24 (B)(i) Payment of money under subdivision (20)(A)(iii) of
25 this section does not include:

26 (a) Utility payments for telephone or Internet
27 service made by the person or committee making the advertisement or
28 communication; or

29 (b) The costs of producing copies of flyers,
30 handbills, or other documents to be distributed by hand by one (1) or more
31 volunteers.

32 (ii) Payment of money under subdivision (20)(A)(iii)
33 of this section includes without limitation money paid to a person in
34 exchange for the distribution by hand of printed advertisement or printed
35 communication such as door hangers or push cards.

36 (C) In making a determination under subdivision (20)(A)(v)

1 of this section, the Arkansas Ethics Commission shall consider:

2 (i) Whether the advertisement or communication
3 offers preferential support for or criticism of a clearly identified
4 candidate for office;

5 (ii) The proximity between the date of the
6 advertisement or communication and the date of the election for the clearly
7 identified candidate for office; and

8 (iii) Any other factor the commission deems relevant
9 to its determination.

10 (D) "Electioneering communication" does not include any
11 advertisement or communication that:

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

15 (a) Broadcast, cable, satellite radio, or
16 television station; or

17 (b) Newspaper, magazine, print media, or
18 Internet media business;

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

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

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

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

30 (vi) Is disseminated by a person or committee on the
31 official website or social media account maintained by the person or
32 committee making the advertisement or communication;

33 (21) "Refers to a clearly identified candidate" means that the
34 candidate's name, nickname, photograph, or drawing appears, or the identity
35 of the candidate is otherwise apparent through an unambiguous reference such
36 as "the Governor", "your county judge", or "the incumbent", or through an

1 unambiguous reference to his or her status as a candidate such as "the
2 Republican nominee for Governor" or "the Democratic candidate for Secretary
3 of State in the State of Arkansas"; and

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

5 (A) If the advertisement or communication is publicly
6 distributed by a broadcast, cable, satellite radio, or television station or
7 by a newspaper, magazine, or other print media, the advertisement or
8 communication can be seen, heard, or read:

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

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

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

19 (B) If the advertisement or communication is publicly
20 distributed by direct mail, electronic mail, telephone, or by hand by a
21 person who has been paid to distribute the advertisement or communication,
22 the advertisement or communication is sent to or distributed to:

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

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

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

32 (C) If the advertisement or communication is publicly
33 distributed by Internet website, the advertisement or communication is
34 intended to be viewed by:

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

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

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

8
9 SECTION 2. Arkansas Code § 7-6-214 is amended to read as follows:

10 7-6-214. Publication of reports.

11 (a)(1) Upon proper filing, the information required in §§ 7-6-203 ~~and~~,
12 7-6-207 – 7-6-210, 7-6-230, and 7-6-232 shall constitute a public record and
13 shall be available within twenty-four (24) hours of the reporting deadline to
14 all interested persons and the news media.

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

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

18 (B) Maintained under §§ 7-6-203 ~~and~~, 7-6-207, 7-6-230, and
19 7-6-232.

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

23
24 SECTION 3. Arkansas Code Title 7, Chapter 6, Subchapter 2, is amended
25 to add additional sections to read as follows:

26 7-6-230. Disclosure statement for electioneering communications.

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

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

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

34 (2)(A) The first disclosure statement filed under this section
35 shall be filed within three (3) days of the first date of public distribution
36 of the electioneering communication that met the one-thousand-dollar-

1 threshold amount but no later than the close of business on the day before
2 the preferential primary election, general primary election, general
3 election, runoff election, or special election.

4 (B) Subsequent disclosure statements under this section
5 shall:

6 (i) Be filed:

7 (a) No later than two (2) weeks after the
8 filing of the most recent disclosure statement under this section for any
9 two-week period in which one (1) or more electioneering communications are
10 made but no later than the close of business on the day before the
11 preferential primary election, general primary election, general election,
12 runoff election, or special election; or

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

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

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

22 (A) The name and address of the person who made the
23 disbursement or who executed a contract to make a disbursement, or if the
24 person is not an individual, the name and address of the person's principal
25 place of business;

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

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

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

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

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

4 (iii) The name and address of the person to whom the
5 expenditure or disbursement was made or, in the case of an amount agreed to
6 be paid, the person with whom the contract to make a disbursement was
7 executed;

8 (E) A list of all expenditures required to be disclosed
9 under this section by category, including without limitation the following
10 categories:

11 (i) Television;

12 (ii) Radio;

13 (iii) Direct mail;

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

16 (v) Electronic mail;

17 (vi) Telephone; and

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

19 (F) The aggregate amount of all expenditures made,
20 disbursements made, or amounts agreed to be paid by contract to make a
21 disbursement that:

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

24 (ii) Was made during the period covered by the
25 statement;

26 (G) All clearly identified candidates referred to in the
27 electioneering communication and the elections in which they are candidates;

28 (H) The disclosure date;

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

36 (i) If the person making the qualifying

1 contributions is an individual, the name and address of the individual making
2 the qualifying contributions;

3 (ii) If the person making the qualifying
4 contributions is not an individual:

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

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

9 (iii) If the person making the qualifying
10 contributions is doing so with funds contributed by another person, a
11 separate list titled "Second Degree Contributors (Segregated Account)" that
12 indicates:

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

18 (b) The name of any person sharing or
19 exercising direction or control of any person listed under subdivision
20 (b)(1)(I)(iii)(a) of this section, including at least one (1) individual;

21 (c) If the person making the contribution
22 listed under subdivision (b)(1)(I)(iii)(a) of this section is doing so with
23 funds contributed by another person, a separate list titled "Third Degree
24 Contributors (Segregated Account)" that indicates:

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

31 (2) The name of any person sharing or
32 exercising direction or control of any person listed under subdivision
33 (b)(1)(I)(iii)(c)(1) of this section, including at least one (1) individual;

34 (iv) The dates of the qualifying contributions;

35 (v) The amount of each contribution; and

36 (vi) The total aggregate amount contributed;

1 (J) Except as provided in subsection (f) of this section,
2 if the disbursements were not paid exclusively from a segregated bank account
3 established to pay for electioneering communications or other communications
4 required to be reported under this subchapter, including without limitation
5 independent expenditures, a list of the contributions made in an aggregate
6 amount of two hundred and fifty dollars (\$250) or more to the person making
7 the electioneering communication, aggregating since the first day of the
8 preceding calendar year that includes:

9 (i) If the person making the qualifying
10 contributions is an individual, the name and address of the individual making
11 the qualifying contributions;

12 (ii) If the person making the qualifying
13 contributions is not an individual:

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

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

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

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

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

30 (c) If the person making the contribution
31 listed under subdivision (b)(1)(J)(iii)(a) of this section is doing so with
32 funds contributed by another person, a separate list titled "Third Degree
33 Contributors (NonSegregated Account)" that indicates:

34 (1) The name and address of each person
35 from whom each person identified as a contributor in the list titled "Second
36 Degree Contributors (Non-segregated Account)" under subdivision

1 (b)(1)(J)(iii)(a) received contributions since the first day of the preceding
2 calendar year, aggregating more than one thousand dollars (\$1,000), together
3 with the date and amount of each contribution; and

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

7 (iv) The dates of the qualifying contributions;

8 (v) The amount of each contribution; and

9 (vi) The total aggregate amount contributed; and

10 (K) A list of each item contributed to producing, airing,
11 mailing, printing, or distributing the electioneering communication that is
12 not money and that has a value of more than two hundred fifty dollars (\$250)
13 that includes:

14 (i) A description of the item;

15 (ii) The date of receipt of the item;

16 (iii) The fair market value of the item;

17 (iv) If the person that contributes the item is an
18 individual, the name and address of the individual; and

19 (v) If the person that contributes the item is a
20 proprietorship, firm, partnership, joint venture, syndicate, labor union,
21 business trust, company, corporation, association, committee, political
22 party, county political party committee, legislative caucus committee, or
23 other organization or group of persons acting in concert:

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

25 (b) The name and address of a person with
26 control over the entity or with authority to act on behalf of the entity,
27 including at least one (1) individual; and

28 (c) The name and address of the person who
29 contributed the item to the entity.

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

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

34 (B) Costs charged by a vendor, including without
35 limitation:

36 (i) Studio rental time;

1 (ii) Staff salaries; and
2 (iii) Cost of video or audio recording or written
3 media and talent;

4 (C) Cost of airtime on broadcast, cable, or satellite
5 radio and television stations, studio time, material costs, and the charges
6 for a broker to purchase the airtime; and

7 (D) Cost of advertising space for print or electronic
8 media.

9 (3)(A) The person is only required to disclose contributions in
10 an amount equivalent to the aggregate amount of all expenditures made in the
11 report as required under subdivision (b)(1)(F) of this section.

12 (B)(i)(a) The person shall report the contributions,
13 whether under subdivisions (b)(1)(I), (b)(1)(J), or (b)(1)(K) of this
14 section, on the last-in, first-out accounting method.

15 (b) As used in this subdivision, "last-in,
16 first-out accounting method" means the procedure by which contributions and
17 disbursements are attributed to the contributions of a person in reverse
18 chronological order beginning with the most recent of its contributors.

19 (ii) A subsequent report shall not duplicate
20 contribution information disclosed in a previous report.

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

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

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

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

34 (f)(1) If the person making the disbursement required to be reported
35 under this section is a multistate organization and the funds were dispersed
36 from an account segregated for the purpose of making electioneering

1 communications in Arkansas, then the disclosure statement shall disclose only
2 the required information concerning the funds that are received and
3 distributed for electioneering communications in Arkansas.

4 (2) If the person making the disbursement required to be
5 reported under this section is a multistate organization and the funds were
6 dispersed from a nonsegregated bank account, then the disclosure statement
7 shall disclose the information required under subdivision (b)(1)(J) of this
8 section concerning the contributions to the nonsegregated bank account.

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

14
15 7-6-231. Coordinated communications.

16 (a)(1) A coordinated communication is an in-kind contribution to the
17 candidate or political party who or to the candidate or political party whose
18 authorized committee or agent cooperated, consulted, requested, suggested, or
19 acted in concert with:

20 (A) The person making the coordinated communication or his
21 or her authorized agent; or

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

24 (2) The in-kind contribution under subdivision (a)(1) of this
25 section shall be subject to the contribution limits set forth under § 7-6-
26 203.

27 (b)(1) As used in this section, "coordinated communication" means an
28 electioneering communication or communication funded by expenditures that
29 contain express advocacy or the functional equivalent of express advocacy
30 made:

31 (A) In cooperation or consultation between:

32 (i) A candidate or his or her authorized committee
33 or agent; and

34 (ii) The person making the:

35 (a) Communication or his or her authorized
36 agent; or

1 (b) Expenditure for the communication or his
2 or her authorized agent;

3 (B) In cooperation or consultation between:

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

5 (ii) The person making the:

6 (a) Communication or his or her authorized
7 agent; or

8 (b) Expenditure for the communication or his
9 or her authorized agent;

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

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

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

15 (A) A candidate's or a political party committee's
16 response to an inquiry about that candidate's or that political party
17 committee's positions on legislative or policy issues unless the response or
18 the inquiry concerns the plans, projects, activities, or needs of the
19 campaign;

20 (B) Unless the public communication promotes, supports,
21 attacks, or opposes the endorsing candidate or another candidate who seeks
22 election to the same office the endorsing candidate is seeking, a public
23 communication:

24 (i) In which a candidate endorses another candidate;
25 and

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

27 (C) Unless the public communication promotes, supports,
28 attacks, or opposes the soliciting candidate or another candidate who seeks
29 election to the same office the soliciting candidate is seeking, a public
30 communication:

31 (i) In which a candidate solicits funds:

32 (a) For another candidate;

33 (b) For a political committee; or

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

1 (ii) That is made by the soliciting candidate; or
2 (D) A public communication in which a candidate is clearly
3 identified only in his or her capacity as the owner or operator of a business
4 that existed prior to the candidacy if:

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

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

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

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

18 (B) Whether the content of the coordinated communication
19 is a public communication that republishes, disseminates, or distributes, in
20 whole or in part, campaign materials prepared by a candidate or a candidate's
21 campaign committee other than a photograph or other likeness of the candidate
22 obtained from a publicly available source; and

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

25 (i) The coordinated communication was created,
26 produced, or distributed at the request or suggestion of the candidate or his
27 or her agent, the candidate's committee or its agent, or the political party
28 or its agent;

29 (ii) The coordinated communication was created,
30 produced, or distributed at the request or suggestion of the person paying
31 for the communication, and the candidate or his or her agent, the candidate's
32 committee or its agent, or the political party or its agent approves the
33 request or suggestion;

34 (iii) The candidate or his or her agent, the
35 candidate's committee or its agent, or the political party or its agent was
36 materially involved in decisions regarding the content, intended audience,

1 means or mode of the coordinated communication, specific media outlet used,
2 timing, frequency, size, or prominence of the coordinated communication; or

3 (iv) The coordinated communication was created,
4 produced, or distributed after one (1) or more substantial discussions about
5 the communication between the person paying for the communication or the
6 employees or agents of that person and:

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

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

9 (c) The political party or its agent.

10 (2) As used in this subsection, the "candidate" means the
11 candidate who is positioned to benefit from the coordinated communication,
12 whether the coordinated communication promotes that candidate or criticizes
13 his or her opponent.

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

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

19 (B) Engages in the activities on behalf of that specific
20 principal.

21 (2) If the activities carried out by an authorized agent would
22 result in a coordinated communication if carried out directly by the
23 candidate, authorized committee staff, or a political party official, the
24 activities of the authorized agent result in a coordinated communication.

25
26 7-6-232. Disclosure statement for covered transfers.

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

31 (2)(A) If a person making a covered transfer has written
32 confirmation from the person making the electioneering communication that
33 information to be contained in the disclosure statement otherwise required by
34 this section has previously been filed or will be filed in a disclosure
35 statement under § 7-6-230, then the person making the covered transfer is not
36 required to include that information in the disclosure statement required by

1 this section.

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

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

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

14 (A) Be filed:

15 (i) No later than two (2) weeks after the filing of
16 the most recent disclosure statement under this section for any two-week
17 period in which one (1) or more covered transfers are made but no later than
18 the close of business on the day before the preferential primary election,
19 general primary election, general election, runoff election, or special
20 election; or

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

27 (B) Not include disclosure of covered transfers that have
28 been previously reported.

29 (c)(1) The statement shall disclose the following:

30 (A) The name and address of any person who made the
31 covered transfer, or if the person is not an individual, the name and address
32 of the person's principal place of business;

33 (B) The name and address of any person sharing or
34 exercising direction or control over the activities of the person who made
35 the covered transfer including at least one (1) individual;

36 (C) The name and address of the custodian of the books and

1 accounts from which the covered transfer was made;

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

6 (i) The amount of the covered transfer;

7 (ii) The date of the covered transfer, or in the
8 case of a covered transfer agreed to be made, the date the agreement was
9 executed; and

10 (iii) The name and address of the person to whom the
11 covered transfer was made, or in the case of a covered transfer agreed to be
12 made, the person to whom the covered transfer was agreed to be made;

13 (E) The aggregate amount of all covered transfers made, or
14 agreed to be made, that:

15 (i) Is not disclosed under subdivision (c)(1)(D) of
16 this section; and

17 (ii) Was made during the period covered by the
18 statement;

19 (F) Except as provided in subsection (g) of this section,
20 if the covered transfer was paid exclusively from a segregated bank account
21 established to pay for expenditures or communications required to be reported
22 under this subchapter, a list of the contributions made in an aggregate
23 amount of two hundred fifty dollars (\$250) or more to the segregated bank
24 account aggregating since the first day of the preceding calendar year that
25 includes:

26 (i) If the person making the qualifying
27 contributions is an individual, the name and address of the individual making
28 the qualifying contributions;

29 (ii) If the person making the qualifying
30 contributions is not an individual:

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

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

35 (iii) If the person making the qualifying
36 contributions is doing so with funds contributed by another person, a

1 separate list titled "Second Degree Contributors (Segregated Account)" that
2 indicates:

3 (a) The name and address of each person from
4 whom each person listed as a contributor under subdivisions (c)(1)(F)(i) and
5 (ii) of this section received contributions since the first day of the
6 preceding calendar year aggregating more than one thousand dollars (\$1,000),
7 together with the date and amount of each contribution;

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

11 (c) If the person making the contribution
12 listed under subdivision (c)(1)(F)(iii)(a) of this section is doing so with
13 funds contributed by another person, a separate list titled "Third Degree
14 Contributors (Segregated Account)" that indicates:

15 (1) The name and address of each person
16 from whom each person identified as a contributor in the list titled "Second
17 Degree Contributors (Segregated Account)" under subdivision (c)(1)(F)(iii)(a)
18 of this section received contributions since the first day of the preceding
19 calendar year, aggregating more than three thousand dollars (\$3,000),
20 together with the date and amount of each contribution; and

21 (2) The name of any person sharing or
22 exercising direction or control of any person listed under subdivision
23 (c)(1)(F)(iii)(a) of this section, including at least one (1) individual;

24 (iv) The dates of the qualifying contributions;

25 (v) The amount of each contribution; and

26 (vi) The total aggregate amount contributed; and

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

35 (i) If the person making the qualifying
36 contributions is an individual, the name and address of the individual making

1 the qualifying contributions;

2 (ii) If the person making the qualifying
3 contributions is not an individual:

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

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

8 (iii) If the person making the qualifying
9 contributions is doing so with funds contributed by another person, a
10 separate list titled "Second Degree Contributors (Nonsegregated Account)"
11 that indicates:

12 (a) The name and address of each person from
13 whom each person listed as a contributor under subdivisions (c)(1)(G)(i) and
14 (ii) of this section received contributions since the first day of the
15 preceding calendar year aggregating more than one thousand dollars (\$1,000),
16 together with the date and amount of each contribution;

17 (b) The name of any person sharing or
18 exercising direction or control of any person listed under subdivision
19 (c)(1)(G)(iii)(a) of this section, including at least one (1) individual; and

20 (c) If the person making the contribution
21 listed under subdivision (c)(1)(G)(iii)(a) of this section is doing so with
22 funds contributed by another person, a separate list titled "Third Degree
23 Contributors (Nonsegregated Account)" that indicates:

24 (1) The name and address of each person
25 from whom each person listed as a contributor in the list titled "Second
26 Degree Contributors (Nonsegregated Account)" under subdivision
27 (c)(1)(G)(iii)(a) of this section received contributions since the first day
28 of the preceding calendar year aggregating more than three thousand dollars
29 (\$3,000), together with the date and amount of each contribution; and

30 (2) The name of any person sharing or
31 exercising direction or control of any person listed under subdivision
32 (c)(1)(G)(iii)(c)(1) of this section, including at least one (1) individual;

33 (iv) The dates of the qualifying contributions;

34 (v) The amount of each contribution; and

35 (vi) The total aggregate amount contributed.

36 (2)(A) The person is only required to disclose contributions in

1 an amount equivalent to the aggregate amount of all expenditures made in the
2 report as required under subdivisions (c)(1)(D) and (c)(1)(E) of this
3 section.

4 (B)(i)(a) The person shall report the contributions,
5 whether under subdivisions (c)(1)(F) or (c)(1)(G) of this section, on the
6 last-in, first-out accounting method.

7 (b) As used in this subdivision, "last-in,
8 first-out accounting method" means the procedure by which contributions and
9 disbursements are attributed to the contributions of a person in reverse
10 chronological order beginning with the most recent of its contributors.

11 (ii) A subsequent report shall not duplicate
12 contribution information disclosed in a previous report.

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

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

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

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

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

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

1 (h) As used in this section, "person sharing or exercising direction
2 or control" means an individual who is an officer, director, executive
3 director or its equivalent, partner, and in the case of unincorporated
4 organizations, an owner of the entity or person making the disbursement for
5 the electioneering communication.

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/s/Tucker

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