

Regnat Populus Ballot Question Committee
P.O. Box 1087
Little Rock Arkansas 72203-1087

The Honorable Dustin McDaniel,
Attorney General of the State of Arkansas

Dear Sir,

I respectfully submit the following ballot question title for your approval for the November 2016 general election:

Popular Name

The Campaign Finance Act of 2016

Ballot Title

AN ACT AMENDING ARKANSAS LAW TO REQUIRE THAT ANY PERSON MAKING A PAYMENT OR A PROMISE OF PAYMENT AGGREGATING TWO THOUSAND DOLLARS OR MORE IN ANY CALENDAR YEAR FOR AN ELECTIONEERING COMMUNICATION OR ANY PERSON OR INDEPENDENT EXPENDITURE COMMITTEE WHICH MAKES INDEPENDENT EXPENDITURES IN AGGREGATE AMOUNT OR VALUE IN EXCESS OF FIVE HUNDRED DOLLARS DISCLOSE THEIR CAMPAIGN SPENDING THROUGH THE SECRETARY OF STATE OR COUNTY CLERK; REQUIRING THE DISCLOSURE OF SPONSORS OF INDEPENDENT EXPENDITURE ADVERTISEMENTS, ELECTIONEERING COMMUNICATIONS, OR ADVERTISEMENTS FOR OR AGAINST BALLOT QUESTIONS OR LEGISLATIVE QUESTIONS; AND CALLING UPON THE CONGRESSIONAL DELEGATION OF ARKANSAS TO SUPPORT, AND THE ARKANSAS GENERAL ASSEMBLY TO RATIFY, AN AMENDMENT TO THE UNITED STATES CONSTITUTION ESTABLISHING THAT, IN ORDER TO ADVANCE THE FUNDAMENTAL PRINCIPLE OF POLITICAL EQUALITY FOR ALL, AND TO PROTECT THE INTEGRITY OF THE LEGISLATIVE AND ELECTORAL PROCESSES, CONGRESS AND THE STATES SHALL HAVE THE POWER TO LIMIT THE RAISING AND SPENDING OF MONEY INTENDED TO INFLUENCE THE OUTCOME OF ELECTIONS, AND TO PROHIBIT CORPORATIONS AND OTHER ARTIFICIAL ENTITIES FROM MAKING CAMPAIGN CONTRIBUTIONS OR EXPENDITURES.

Thank you in advance for your cooperation in this matter.

Paul J. Spencer

Chairman
Regnat Populus Ballot Question Committee

INITIATIVE PETITION

To the Honorable Mark Martin, Secretary of the State of Arkansas: We, the undersigned legal voters of the State of Arkansas, respectfully propose the following Initiated Act, to wit:

Popular Name

THE CAMPAIGN FINANCE ACT OF 2016

Ballot Title

AN ACT AMENDING ARKANSAS LAW TO REQUIRE THAT ANY PERSON MAKING A PAYMENT OR A PROMISE OF PAYMENT AGGREGATING TWO THOUSAND DOLLARS OR MORE IN ANY CALENDAR YEAR FOR AN ELECTIONEERING COMMUNICATION OR ANY PERSON OR INDEPENDENT EXPENDITURE COMMITTEE WHICH MAKES INDEPENDENT EXPENDITURES IN AGGREGATE AMOUNT OR VALUE IN EXCESS OF FIVE HUNDRED DOLLARS DISCLOSE THEIR CAMPAIGN SPENDING THROUGH THE SECRETARY OF STATE OR COUNTY CLERK; REQUIRING THE DISCLOSURE OF SPONSORS OF INDEPENDENT EXPENDITURE ADVERTISEMENTS, ELECTIONEERING COMMUNICATIONS, OR ADVERTISEMENTS FOR OR AGAINST BALLOT QUESTIONS OR LEGISLATIVE QUESTIONS; AND CALLING UPON THE CONGRESSIONAL DELEGATION OF ARKANSAS TO SUPPORT, AND THE ARKANSAS GENERAL ASSEMBLY TO RATIFY, AN AMENDMENT TO THE UNITED STATES CONSTITUTION ESTABLISHING THAT, IN ORDER TO ADVANCE THE FUNDAMENTAL PRINCIPLE OF POLITICAL EQUALITY FOR ALL, AND TO PROTECT THE INTEGRITY OF THE LEGISLATIVE AND ELECTORAL PROCESSES, CONGRESS AND THE STATES SHALL HAVE THE POWER TO LIMIT THE RAISING AND SPENDING OF MONEY INTENDED TO INFLUENCE THE OUTCOME OF ELECTIONS, AND TO PROHIBIT CORPORATIONS AND OTHER ARTIFICIAL ENTITIES FROM MAKING CAMPAIGN CONTRIBUTIONS OR EXPENDITURES.

Findings and Purposes

WHEREAS, the People of the State of Arkansas seek to create a democracy that is truly of, by and for the People and not bought and paid for by corporations, unions and the wealthy; and

WHEREAS, the People of the State of Arkansas recognize that the U.S. Supreme Court ruling in *Citizens United v. Federal Election Commission* has opened the gate for a flood of new special

interest money into Arkansas state elections, much of which is undisclosed and hidden from public view; and

WHEREAS, the People of the State of Arkansas recognize that a democracy of, by and for the people is founded upon an informed electorate, that the public interest is served when the interests of campaign donors and funders of political advertising are disclosed, and that transparency in political spending is critical for preventing corruption; and

WHEREAS, the People of the State of Arkansas believe that Congress and the states should have the authority to limit campaign spending;

THEREFORE, THE PEOPLE OF THE STATE OF ARKANSAS do enact as follows:

Section 1: Disclosure of Campaign Contributions

Amending Title 7, Chapter 6, Subchapter 2, as follows:

SECTION 101. Short title.

This chapter shall be known and cited as "The Arkansas DISCLOSE Act."

SECTION 102. Definitions.

A.C.A. §7-6-201 is amended to renumber existing paragraphs (8) through (18) accordingly and insert new paragraph (8) as follows:

(8) (A) "Electioneering communication" means any communication that clearly identifies a candidate for state or local elective office, but does not expressly advocate the election or defeat of the candidate, and that is disseminated, broadcast or otherwise published within 60 days of the election sought by that candidate, and that targets the candidate's relevant electorate.

(B) "Electioneering communication" does not include—

(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Arkansas Ethics Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

(iv) a communication on the Internet or through email that is not a paid advertisement on another person's web site or internet communications service; and

(v) any other communication exempted under such regulations as the Arkansas Ethics Commission may promulgate consistent with this Act.

(C) For purposes of this paragraph, a communication that refers to a clearly identified candidate for state or local elective office “targets the candidate’s relevant electorate” if it can be received by:

- (i) for broadcast, cable or satellite communications, 15,000 or more individuals for statewide office, or 5 percent of the jurisdiction’s population or 3,000 or more individuals, whichever is less, for other offices; or
- (ii) for mass mailing, print or telephone bank: 2,500 or more “households” for statewide office, or 5 percent of the jurisdiction’s “households” or 500 or more “households,” whichever is less, for other offices.

SECTION 103. Reporting of electioneering communications

A new A.C.A. §7-6-221 is added to Title 7, Chapter 6, Subtitle 2, as follows:

§7-6-221. Reporting of electioneering communications.

- (a) Any person who makes a payment or a promise of payment aggregating two thousand dollars (\$2,000) or more in any calendar year for an electioneering communication shall file online or electronically with the Secretary of State or County Clerk, whichever is appropriate, a report disclosing the name of the person, address, occupation, and employer, and amount of the payment. The report shall be filed within 48 hours of making the payment or the promise to make the payment.
- (b) Such reports shall include:
 - (1) The total amount of contributions received with loans stated separately, the total amount of expenditures made during the filing periods, and the cumulative amount of those totals for the entire election cycle;
 - (2) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement;
 - (3) The principal place of business of the person making the disbursement, if not an individual;
 - (4) The amount of each disbursement of more than two hundred dollars (\$200) during the period covered by the statement and the identification of the person to whom the disbursement was made;
 - (5) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified;
 - (6) If the disbursements were paid out of a segregated bank account which consists of funds contributed directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of fifty dollars (\$50) or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications; and

(7) If the disbursements were paid out of funds not described in subparagraph (6), the names and addresses of all contributors who contributed an aggregate amount of fifty dollars (\$50) or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

(c) Other than for county, school district, township or municipal elections, the Arkansas Secretary of the State shall make such reports available to the public in a searchable, sortable and downloadable format on its web site.

SECTION 104. Reporting of independent expenditures.

A.C.A. §7-6-220 of Title 7, Chapter 6, Subchapter 2, is amended as follows:

§7-6-220. Reporting of independent expenditures.

(a) A person who or an independent expenditure committee which makes independent expenditures in an aggregate amount or value in excess of five hundred dollars (\$500) in a calendar year shall file reports with the Secretary of State or County Clerk, whichever is appropriate, following the same quarterly and monthly reporting schedule applicable to candidates set forth in §7-6-207(a)(1)(A) and (B) after meeting the reporting threshold of five hundred dollars (\$500) or more; except that within 60 days of the relevant election, a person or committee making independent expenditures shall file online or electronically with the Secretary of State or County Clerk, whichever is appropriate, a report of each additional independent expenditure of two thousand dollars (\$2,000) or more within 48 hours of such expenditure.

~~(1) No later than thirty (30) days prior to preferential primary elections, general elections, and special elections covering the period ending thirty-five (35) days prior to such elections;~~

~~(2) No later than seven (7) days prior to preferential primary elections, runoff elections, general elections, and special elections covering the period ending ten (10) days prior to such elections; and~~

~~(3) As for a final report, no later than thirty (30) days after the end of the month in which the last election is held at which the candidate seeks nomination or election.~~

(b) Such reports shall include:

(1) ~~In the case of an individual making such an expenditure, the name, address, telephone number, principal place of business, employer, and occupation of the individual; The total amount of contributions received, with loans stated separately, the total amount of expenditures made during the filing periods, and the cumulative amount of those totals for the entire election cycle;~~

(2) ~~In the case of a committee, the name, address, employer, and occupation of its officers; The identification of the person making the independent expenditure, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the independent expenditure;~~

- (3) ~~In the case of a person who is not an individual, the principal name of the entity, the address, and the name, address, employer, and occupation of its officers; and~~ The principal place of business of the person making the independent expenditure, if not an individual;
- (4) ~~The same information required of candidates for office other than school district, township, municipal, or county office as set forth in § 7-6-207(b)(1). The amount of each disbursement of more than two hundred dollars (\$200) during the period covered by the statement and the identification of the person to whom the disbursement was made.~~
- (5) The elections to which the independent expenditures pertain and the names (if known) of the candidates identified or to be identified; and
- (c) The information required in ~~§ 7-6-207(b)(1)~~ may be provided in the form of a schedule or schedules attached to the report.
- (d) The report shall be verified by an affidavit of an officer of the committee stating that to the best of his or her knowledge and belief the information disclosed is a complete, true, and accurate financial statement of the committee's contributions received and made.
- (e) (1) A quarterly or monthly report is timely filed if it is either delivered by hand or mailed to the Secretary of State or County Clerk, properly addressed, postage prepaid, bearing a postmark indicating that it was received by the post office or common carrier on the date that the report is due.
- (2) The Secretary of State or County Clerk shall accept via facsimile any report if the original is received by the Secretary of State within ten (10) days of the date of transmission.
- (3) The Secretary of State or County Clerk ~~may~~ shall receive reports in a readable electronic format that is acceptable to the Secretary of State or County Clerk and approved by the Arkansas Ethics Commission.

SECTION 105. Disclosure of sponsors of political advertisements.

A new A.C.A. §7-6-228 is added to Title 7, Chapter 6, Subtitle 2, as follows:

§7-6-228. Disclosure of sponsors of independent expenditure advertisements, electioneering communications, or advertisements for or against ballot questions or legislative questions.

- (a) An independent expenditure advertisement, electioneering communication, or advertisement for or against a ballot question or legislative question that is a radio advertisement or prerecorded telephonic message shall include a disclosure at the end of the advertisement read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement that reads as follows: "Top funders of this ad are [state names in descending order of identifiable contributors who have made the three largest cumulative contributions]. Paid for by [name of the committee that paid for the advertisement]."

- (1) If there are fewer than three identifiable contributors, the disclosure required by subdivision (a) shall be adjusted accordingly to disclose the qualifying identifiable contributors, if any.
 - (2) If there is only one identifiable contributor or the advertisement lasts 15 seconds or less, the disclosure required by subdivision (a) shall be adjusted to read as follows: "Top funder of this ad is [state name of identifiable contributor who made the largest cumulative contributions]. Paid for by [name of the committee that paid for the advertisement]."
 - (3) If there are no identifiable contributors or the committee that paid for the advertisement is the only identifiable contributor, it may replace the disclosure required by subdivision (a) with the following: "Paid for by [name of the committee that paid for the advertisement]."
- (b) An independent expenditure advertisement, electioneering communication, or advertisement for or against a ballot question or legislative question that is a television or video advertisement shall include a disclosure area with a solid black background on the entire bottom one-third of the television or video display screen at the beginning of the advertisement for a minimum of five seconds in the case of an advertisement that lasts 30 seconds or less or a minimum of 10 seconds in the case of an advertisement that lasts longer than 30 seconds. The disclosure area shall include all of the following:
- (1) The text "Top Funders of This Ad." The text shall be located at the top of the disclosure area and centered horizontally, shall be yellow in color in Arial equivalent type and the type size shall be at least 4 percent of the height of the television or video display screen;
 - (2) Immediately below the text described in paragraph (1), the names of the identifiable contributors who have made the three largest cumulative contributions. The identifiable contributors shall each be disclosed on a separate horizontal line, in descending order, beginning with the identifiable contributor who made the largest cumulative contributions on the first line. The name of each of the identifiable contributors shall be centered horizontally. The text shall be white in color in Arial Narrow equivalent type and the type size shall be at least 4 percent of the height of the television or video display screen;
 - (3) The text "Paid for by [name of the committee that paid for the advertisement]." The text shall be yellow in color in Arial Narrow equivalent type and the type size shall be equivalent to 2.5 percent of the height of the television or video display screen. The text shall be right-aligned and located in a position that is vertically 2.5 percent of the height of the television or video display screen away from the bottom right of the television or video display screen; and
 - (4) If there are fewer than three identifiable contributors, the disclosure required by this subdivision shall be adjusted accordingly to disclose only those that qualify as identifiable contributors, if any. If the committee does not have any identifiable

contributors, the disclosure shall be adjusted to include the name of the committee in place of the names of identifiable contributors.

- (c) An independent expenditure advertisement, electioneering communication, or advertisement for or against a ballot question or legislative question that is a mass mailing or a print advertisement and that is 12 square inches or more in size shall include a disclosure area on the largest page of the mass mailing or print advertisement that satisfies all of the following:
- (1) The disclosure area shall have a solid white background so as to be easily legible, and shall be in a printed or drawn box on the bottom of the page that is set apart from any other printed matter. All text in the disclosure area shall be black in color;
 - (2) The text "Top Funders of This Ad" shall be located at the top of the disclosure area and centered horizontally in the disclosure area. The text shall be in an Arial equivalent type with a type size of at least 12-point for advertisements smaller than 93 square inches and at least 14-point for advertisements that are equal to, or larger than, 93 square inches;
 - (3) Immediately below the text described in paragraph (2) shall be the names of the identifiable contributors who have made the three largest cumulative contributions. The identifiable contributors shall each be disclosed on a separate horizontal line, in descending order, beginning with the identifiable contributor who made the largest cumulative contributions on the first line. The name of each of the identifiable contributors shall be centered horizontally in the disclosure area. The text shall identify each identifiable contributor in an Arial Narrow equivalent type with a type size of at least 10-point for advertisements smaller than 93 square inches and at least 12-point for advertisements that are equal to, or larger than, 93 square inches.
 - (A) If the advertisement is 4 inches tall or less, it need only show the names of the identifiable contributors who have made the two largest cumulative contributions.
 - (B) If the advertisement is 3 inches tall or less, it need only show the name of the identifiable contributor who made the largest cumulative contribution, and the text required by paragraph (2) may say "Top Funder of This Ad";
 - (4) Immediately below the text described in paragraph (3), the text "Funding Details At [insert Internet Web site address of the disclosure Internet Web site]." The text shall be in an Arial Narrow equivalent type with at least 10-point type size for advertisements smaller than 93 square inches and at least 12-point type size for advertisements that are equal to, or larger than, 93 square inches. This text shall not be required if the advertisement is 5 inches tall or less;
 - (5) The text "Paid for by [name of the committee that paid for the advertisement]." The text shall be located at the bottom of the disclosure area and shall be in an Arial Narrow equivalent type with at least 8-point type size for pages smaller than 8.5 inches and at least 10-point type size for pages that are equal to, or larger than, 8.5 inches by 11 inches; and

- (6) If there are fewer than three identifiable contributors, the disclosure shall be adjusted accordingly to disclose the qualifying identifiable contributors, if any. If the committee does not have any identifiable contributors, the disclosure shall be adjusted to include the name of the committee in place of the names of identifiable contributors.
- (d) The Arkansas Ethics Commission may promulgate regulations to require disclosures on all forms of political advertisements not covered by this article, including, but not limited to, electronic media advertisements and billboards. If feasible, the regulations shall require the listing of the name of the committee and as many of the three identifiable contributors that made the largest cumulative contributions as possible in a conspicuous manner.

Section 2. Constitutional Amendment

The voters of Arkansas call upon the Arkansas congressional delegation to propose and support, and the Arkansas General Assembly to ratify, an amendment to the United States Constitution establishing that:

- (1) To advance the fundamental principle of political equality for all, and to protect the integrity of the legislative and electoral processes, Congress and the States shall have the power to limit the raising and spending of money and in kind equivalents intended to influence the outcome of elections; and
- (2) Congress and the States shall have power to implement and enforce this Amendment by appropriate legislation, and nothing in this Constitution shall be construed to prevent Congress or the States, in enacting legislation authorized by this Amendment, from distinguishing between natural persons and corporations or other artificial entities created by the laws of any State, the United States, or any foreign state, including by forbidding such entities from making election contributions or expenditures.

SECTION 3. Severability.

If any provision or section of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision of the Act which can be given effect without the invalid provisions or applications, and to this end the provisions of the Act are declared severable.