

19:44A-22.2

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Campaign advertisements)

NJSA: 19:44A-22.2

LAWS OF: 1995 CHAPTER: 391

BILL NO: S981

SPONSOR(S): Schluter

DATE INTRODUCED: May 5, 1994

COMMITTEE: ASSEMBLY: ---
SENATE: State Government

AMENDED DURING PASSAGE: Yes Senate committee substitute
for S981/S2230 (1R) enacted

DATE OF PASSAGE: ASSEMBLY: January 4, 1996
SENATE: January 4, 1996

DATE OF APPROVAL: January 10, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes 1-23-95 & 11-9-95

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

Legislative summary of newspaper articles attached.

[FIRST REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 981 and 2230

STATE OF NEW JERSEY

ADOPTED NOVEMBER 9, 1995

Sponsored by Senators SCHLUTER, LYNCH and McGreevey

1 AN ACT concerning campaign advertisements, amending and
2 supplementing P.L.1973, c.83, and repealing parts of the
3 statutory law.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. (New section) The Legislature finds and declares that:

8 a. in McIntyre v. Ohio, 63 U.S.L.W. 4279 (U.S. April 19, 1995)
9 (No. 93-986), the United States Supreme Court invalidated, on
10 First Amendment grounds, an Ohio statute prohibiting the
11 distribution of campaign materials which did not bear the issuer's
12 name and address;

13 b. nevertheless, this decision recognized that there may be
14 circumstances in which a state's enforcement interest justifies a
15 more limited identification requirement;

16 c. the court noted that in the area of campaign finance, in
17 particular, a more narrowly drawn statute may be permitted;

18 d. prior decisions of the United States Supreme Court have
19 established that regulation of campaign finance may be justified
20 by a state's interest in preventing actual or perceived corruption;
21 and

22 e. because the McIntyre decision calls into question the
23 validity of certain New Jersey statutes requiring disclosures on
24 campaign advertising, there is a need to revise the law so that it
25 is narrowly-tailored to help effectuate the State's compelling
26 interest in preventing corruption in connection with the financing
27 of campaigns for public office.

28 2. (New section) a. Whenever a candidate committee, joint
29 candidate committee, political committee, continuing political
30 committee, political party committee or legislative leadership
31 committee, or any group other than such a committee, or any
32 person makes, incurs or authorizes an expenditure for the purpose
33 of financing a communication aiding or promoting the
34 nomination, election or defeat of any candidate or providing
35 political information on any candidate which is an expenditure
36 that the committee, group or person is required to report to the
37 Election Law Enforcement Commission pursuant to P.L.1973,
38 c.83 (C.19:44A-1 et seq.), the communication shall clearly state
39 the name and business or residence address of the committee,
40 group or person, as that information appears on reports filed with
41 the commission, and that the communication has been financed
42 by that committee, group or person.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Senate floor amendments adopted December 7, 1995.

1 b. Whenever a candidate committee, joint candidates
 2 committee, political committee, continuing political committee,
 3 political party committee or legislative leadership committee, or
 4 any group other than such a committee, or any person makes,
 5 incurs or authorizes an expenditure for the purpose of financing a
 6 communication aiding the passage or defeat of any public
 7 question or providing political information on any public question
 8 which is an expenditure that the committee, group or person is
 9 required to report to the Election Law Enforcement Commission
 10 pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.), the
 11 communication shall clearly state the name and business or
 12 residence address of the committee, group or person, as that
 13 information appears on reports filed with the commission, and
 14 that the communication has been financed by that committee,
 15 group or person.

16 c. A communication ¹[which] ~~that~~¹ is financed by any person,
 17 not acting in concert with ¹[any other person or group] a
 18 candidate or any person or committee acting on behalf of a
 19 candidate¹, shall contain a clear and conspicuous statement that
 20 the expenditure was ¹not¹ made ¹[without] with¹ the cooperation
 21 or ~~prior~~ consent of, or in consultation with or at the request or
 22 suggestion of, ¹[a] any such¹ candidate ¹[or any],¹ person or
 23 committee ¹[acting on behalf of a candidate]¹.

24 d. Any person who accepts compensation from a committee,
 25 group or individual described in subsection a. or b. of this
 26 section for the purpose of printing, broadcasting, or otherwise
 27 disseminating to the electorate a communication shall maintain a
 28 record of the transaction which shall include an exact copy of the
 29 communication and a statement of the number of copies made or
 30 the ~~dates~~ and times that the communication was broadcast, and
 31 the ~~name~~ and address of the committee, group or individual
 32 paying for the communication. The record shall be maintained on
 33 file at the principal office of the person accepting the
 34 communication for at least two years and shall be available for
 35 public inspection during normal business hours.

36 e. As used in this section, "communication" means a press
 37 release, pamphlet, flyer, form letter, sign ^{1,1} billboard or paid
 38 advertisement printed in any newspaper or other publication or
 39 broadcast on radio or television, or any other form of advertising
 40 directed to the electorate.

41 f. The provisions of this section shall not be construed to apply
 42 to any bona fide news item or editorial contained in any
 43 publication of bona fide general circulation.

44 g. ~~(1)~~ A person who violates a provision of this section shall be
 45 subject to the civil penalties provided in section 22 of P.L.1973,
 46 c.83 (C.19:44A-22).

47 (c) A person who ¹[purposely and] ¹ with intent ¹to injure
 48 an one or¹ to conceal ¹[or misrepresent] wrongdoing, purposely
 49 fa.ifies, conceals or misrepresents¹ information required by this
 50 section to be disclosed or maintained on file is guilty of a crime
 51 of the fourth degree.

52 h. The Election Law Enforcement Commission shall
 53 promulgate rules and regulations pursuant to the "Administrative
 54 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to

1 effectuate the purpose of this section. The commission may, by
2 regulation, exempt from the provisions of this section small,
3 tangible items of de minimis value which are commonly used in
4 campaigns to convey a political message, including, but not
5 limited to, buttons, combs, and nail files. The commission may
6 also, by regulation, exempt from the provisions of this section
7 advertising space purchased by a candidate committee, joint
8 candidates committee, political committee, continuing political
9 committee, political party committee, legislative leadership
10 committee or other person, in a political program book
11 distributed at a fund-raising event if the financial transaction is
12 otherwise subject to disclosure. An exemption granted by the
13 commission with respect to any item shall not relieve the
14 committee, group or individual making an expenditure therefor
15 from any applicable campaign finance reporting requirements.

16 In addition, the commission shall have the authority to provide,
17 by regulation, that a communication need not include the address
18 of the committee, group or person financing the communication
19 in circumstances where the name of a committee, group or
20 person would be sufficient to identify it from the commission's
21 records.

22 3. Section 11 of P.L.1973, c.83 (C.19:44A-11) is amended to
23 read as follows:

24 11. No contribution of money or other thing of value, nor
25 obligation therefor, including but not limited to contributions,
26 loans or obligations of a candidate himself or of his family, shall
27 be made or received, and no expenditure of money or other thing
28 of value, nor obligation therefor, including expenditures, loans or
29 obligations of a candidate himself or of his family, shall be made
30 or incurred, directly or indirectly, to support or defeat a
31 candidate in any election, or to aid the passage or defeat of any
32 public question, except through:

33 a. The duly appointed campaign treasurer or deputy campaign
34 treasurers of the candidate committee or joint candidates
35 committee;

36 b. The duly appointed organizational treasurer or deputy
37 organizational treasurers of a political party committee or a
38 continuing political committee;

39 c. The duly appointed campaign treasurer or deputy campaign
40 treasurers of a political committee; or

41 d. The duly appointed organizational treasurer or deputy
42 organizational treasurer of a legislative leadership committee.

43 It shall be lawful, however, for any person, not acting in
44 concert with any other person or group, to expend personally
45 from his own funds a sum which is not to be repaid to him for any
46 purpose not prohibited by law, or to contribute his own personal
47 services and personal traveling expenses, to support or defeat a
48 candidate or to aid the passage or defeat of a public question;
49 provided, however, that any person making such expenditure shall
50 be required to report his or her name and mailing address and the
51 amount of all such expenditures and expenses, except personal
52 traveling expenses, if the total of the money so expended,
53 exclusive of such traveling expenses, exceeds [\$200] \$500, and
54 also, where the person is an individual, to report the individual's

1 occupation and the name and mailing address of the individual's
2 employer, to the Election Law Enforcement Commission at the
3 same time and in the same manner as a political committee
4 subject to the provisions of section 8 of this act.

5 No contribution of money shall be made in currency, except
6 contributions in response to a public solicitation, provided that
7 cumulative currency contributions of up to \$200 may be made to
8 a candidate committee or joint candidates committee, a political
9 committee, a continuing political committee, a legislative
10 leadership committee or a political party committee if the
11 contributor submits with the currency contribution a written
12 statement of a form as prescribed by the commission, indicating
13 the contributor's name, mailing address and occupation and the
14 amount of the contribution, including the contributor's signature
15 and the name and mailing address of the contributor's employer.

16 Any anonymous contribution received by a campaign treasurer
17 or deputy campaign treasurer shall not be used or expended, but
18 shall be returned to the donor, if his identity is known, and if no
19 donor is found, the contribution shall escheat to the State.

20 No person, partnership or association, either directly or
21 through an agent, shall make any loan or advance, the proceeds of
22 which that person, partnership or association knows or has reason
23 to know or believe are intended to be used by the recipient
24 thereof to make a contribution or expenditure, except by check
25 or money order identifying the name, mailing address and
26 occupation or business of the maker of the loan, and, if the maker
27 is an individual, the name and mailing address of that individual's
28 employer; provided, however, that such loans or advances to a
29 single individual, up to a cumulative amount of \$50 in any
30 calendar year, may be made in currency.

31 (cf: P.L.1993, c.65, s.6)

32 4. Sections 2 through 5 of P.L.1963, c.57 (C.19:34-38.1 et
33 seq.), P.L.1966, c.70 (C.19:34-38.5), N.J.S.18A:14-97, and
34 N.J.S.18A:14-97.1, N.J.S.18A:14-97.2 and N.J.S.18A:14-97.3 are
35 repealed.

36 5. This act shall take effect on February 1 next following the
37 date of enactment.

38
39
40
41
42 Revises law concerning campaign advertising disclosures.

SENATE, No. 981

STATE OF NEW JERSEY

INTRODUCED MAY 5, 1994

By Senator SCHLUTER

1 AN ACT concerning campaign advertisements, supplementing
2 P.L.1973, c.83 (C.19:44A-1 et seq.), and repealing sections 2
3 through 5 of P.L.1963, c.57 and P.L.1966, c.70.

4
5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. The Legislature finds and declares that:

8 a. in a representative democracy, one of the most fundamental
9 duties of government is to ensure the integrity of the electoral
10 process;

11 b. a crucial aspect of that responsibility is the establishment
12 of reasonable standards for accountability in the dissemination of
13 campaign information;

14 c. disclosure requirements applicable to campaign advertising
15 serve to accurately inform voters of the source of material and
16 to facilitate enforcement of campaign finance laws, prevent false
17 or misleading attributions and discourage libelous statements;

18 d. these purposes can best be accomplished by requiring
19 campaign-related communications with the electorate to disclose
20 the identity of the committee, group or individual financing the
21 dissemination of the information;

22 e. at the same time, disclosure rules should not be so
23 burdensome as to stifle the free exchange of ideas or impair the
24 ability of interested persons to communicate with the voters; and

25 f. there is a need, therefore, for the Legislature to establish
26 reasonable disclosure standards which meet its responsibility to
27 the democratic process by protecting the interests of all
28 concerned with that process.

29 2. a. (1) Whenever a candidate committee, joint candidates
30 committee, political committee, continuing political committee,
31 political party committee or legislative leadership committee
32 makes an expenditure for the purpose of financing a
33 communication, the communication shall clearly state the name
34 and address of the committee making the expenditure and that it
35 has been paid for by that committee.

36 (2) Whenever any individual or any group, other than a
37 committee described in paragraph (1) of this subsection, makes an
38 expenditure for the purpose of financing a communication with
39 the members of the electorate which urges the election or defeat
40 of a candidate for any elective public office or advocates the
41 passage or defeat of a public question, the communication shall
42 clearly state the name and address of the group or individual
43 making the expenditure and that it has been paid for by that
44 group or individual.

45 (3) A communication which is financed by an independent

1 expenditure, as defined by regulation of the Election Law
2 Enforcement Commission, shall contain a clear and conspicuous
3 statement that the expenditure was made without the
4 cooperation or prior consent of, in consultation with or at the
5 request or suggestion of, a candidate or any person or committee
6 acting on behalf of a candidate.

7 (4) The name and the address disclosed by a committee, group
8 or individual in connection with a communication shall be the
9 same as that used on any reports which the committee, group or
10 individual is required by law to file with the Election Law
11 Enforcement Commission.

12 b. Any person who accepts compensation from a committee,
13 group or individual financing a communication in the manner
14 described in subsection a. of this section shall maintain a record
15 of the transaction which shall include an exact copy of the
16 communication and a statement of the number of copies made or
17 the dates and times that the communication was broadcast, and
18 the name and address of the committee, group or individual
19 paying for the communication. The record shall be maintained on
20 file at the principal office of the person accepting the
21 communication for at least two years and shall be available for
22 public inspection during normal business hours.

23 c. As used in this section, "communication" means a press
24 release, pamphlet, flyer, form letter, sign, billboard or paid
25 advertisement printed in any newspaper or other publication or
26 broadcast on radio or television, or any other form of advertising
27 directed to the electorate.

28 d. The provisions of this act shall not be construed to apply to
29 any bona fide news item or editorial contained in any publication
30 of bona fide general circulation.

31 e. The Election Law Enforcement Commission shall
32 promulgate rules and regulations pursuant to the "Administrative
33 Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) to
34 effectuate the purpose of this act. The commission may, by
35 regulation, exempt from the provisions of this act small, tangible
36 items of de minimis monetary value which are commonly used in
37 campaigns to convey a political message, including, but not
38 limited to, buttons, combs, and nail files. The commission may
39 also, by regulation, exempt from the provisions of this act
40 advertising space purchased by a candidate committee, joint
41 candidates committee, political committee, continuing political
42 committee, political party committee, legislative leadership
43 committee or other person, in a political program book
44 distributed at a fund-raising event if the financial transaction is
45 otherwise subject to disclosure. An exemption granted by the
46 commission with respect to any item shall not relieve the
47 committee, group or individual making an expenditure therefor
48 from any applicable campaign finance reporting requirements.

49 3. Sections 2 through 5 of P.L.1963, c.57 (C.19:34-38.1 et seq.)
50 and P.L.1966, c.70 (C.19:34-38.5) are repealed.

51 4. This act shall take effect immediately.

STATEMENT

1
2
3 The purpose of this bill is to simplify and modernize the law
4 governing disclosures made in connection with campaign
5 advertisements and related materials and to transfer
6 responsibility for policing these requirements from the Attorney
7 General to the Election Law Enforcement Commission (ELEC).

8 At present, the law requires that campaign material must bear
9 on its face the name and address of the person causing the item
10 to be "printed, copied or published," or paying therefor, and the
11 name and address of the person by whom the material is printed,
12 copied or published. It also requires the printer to keep a record
13 of the campaign material which must be available for public
14 inspection for a period of two years. Materials prepared for an
15 organization must bear the name and address of the organization
16 and of the person authorizing a printing on the organization's
17 behalf. The existing law authorizes the Attorney General to
18 seize material held for distribution in violation of the law and,
19 with court approval, to destroy such material.

20 It appears that some aspects of the current law unnecessarily
21 burden the free flow of information from candidates and other
22 interested persons to the voters. The bill would repeal and
23 replace the existing law. It would provide that whenever a
24 candidate committee, joint candidates committee, political
25 committee, continuing political committee, political party
26 committee or legislative leadership committee makes an
27 expenditure for the purpose of financing a communication
28 directed to the electorate, the communication must state the
29 name and address of the committee making the expenditure and
30 that it has been paid for by that committee. It would also
31 provide that whenever any other group or individual makes an
32 expenditure for the purpose of financing a communication with
33 the members of the electorate which urges the election or defeat
34 of a candidate for any elective public office or advocates the
35 passage or defeat of a public question, the communication must
36 state the name and address of the group or individual making the
37 expenditure and that it has been paid for by that group or
38 individual.

39 In addition, a communication which is financed by an
40 independent expenditure shall state that the expenditure was
41 made without the consent or cooperation of a candidate or any
42 person or committee acting on behalf of a candidate. These
43 requirements would apply to all forms of communication
44 including printed materials, signs and paid advertisements which
45 are published or broadcast. The bill's provisions would not apply
46 to any bona fide news item or editorial. The bill also requires a
47 person accepting compensation in connection with printing or
48 broadcasting a communication to keep a record of the transaction
49 and the communication for two years.

50 The ELEC is directed to promulgate regulations implementing
51 the bill. Since ELEC receives campaign expenditure reports,
52 which include information on advertising expenditures, it is
53 desirable to vest in ELEC responsibility for handling disclosure
54 compliance. The bill also specifically authorizes ELEC to exempt

1 from disclosure requirements small, tangible items used in
2 political campaigns such as buttons, combs and nail files as well
3 as certain advertisements in political program books used at
4 fund-raising.

5

6

7

8

9 Requires certain disclosures to accompany campaign
10 advertisements and related materials.

SENATE, No. 2230

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 28, 1995

By Senator LYNCH

1 AN ACT concerning campaign advertisements, supplementing
2 P.L.1973, c.83 (C.19:44A-1 et seq.), and repealing parts of the
3 statutory law.

4
5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. The Legislature finds and declares that:

8 a. in McIntyre v. Ohio, 63 U.S.L.W. 4279 (U.S. April 19, 1995)
9 (No. 93-986), the United States Supreme Court invalidated, on
10 First Amendment grounds, an Ohio statute prohibiting the
11 distribution of campaign materials which did not bear the issuer's
12 name and address;

13 b. nevertheless, this decision recognized that there may be
14 circumstances in which a state's enforcement interest justifies a
15 more limited identification requirement;

16 c. the court noted that in the area of campaign finance, in
17 particular, a more narrowly drawn statute may be permitted;

18 d. prior decisions of the United States Supreme Court have
19 established that regulation of campaign finance may be justified
20 by state's interest in preventing actual or perceived corruption;
21 and

22 e. because the McIntyre decision calls into question the
23 validity of certain New Jersey statutes requiring disclosures on
24 campaign advertising, there is a need to revise the law so that it
25 is narrowly-tailored to help effectuate the State's compelling
26 interest in preventing corruption in connection with the financing
27 of campaigns for public office.

28 2. a. Whenever a candidate committee, joint candidates
29 committee, political committee, continuing political committee,
30 political party committee or legislative leadership committee, or
31 any group other than such a committee, or any person makes,
32 incurs or authorizes an expenditure for the purpose of financing a
33 communication aiding or promoting the nomination, election or
34 defeat of any candidate or providing political information on any
35 candidate which is an expenditure that the committee, group or
36 person is required to report to the Election Law Enforcement
37 Commission pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.), the
38 communication shall clearly state the name and business or
39 residence address of the committee, group or person, as that
40 information appears on reports filed with the commission, and
41 that the communication has been financed by that committee,
42 group or person.

43 b. Whenever a candidate committee, joint candidates
44 committee, political committee, continuing political committee,
45 political party committee or legislative leadership committee,

1 or any group other than such a committee, or any person makes,
2 incurs or authorizes an expenditure for the purpose of financing a
3 communication aiding the passage or defeat of any public
4 question or providing political information on any public question
5 which is an expenditure that the committee, group or person is
6 required to report to the Election Law Enforcement Commission
7 pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.), the
8 communication shall clearly state the name and business or
9 residence address of the committee, group or person, as that
10 information appears on reports filed with the commission, and
11 that the communication has been financed by that committee,
12 group or person.

13 c. Any person who accepts compensation from a committee,
14 group or individual described in subsection a. or b. of this section
15 for the purpose of printing, broadcasting, or otherwise
16 disseminating to the electorate a communication shall maintain a
17 record of the transaction which shall include an exact copy of the
18 communication and a statement of the number of copies made or
19 the dates and times that the communication was broadcast, and
20 the name and address of the committee, group or individual
21 paying for the communication. The record shall be maintained on
22 file at the principal office of the person accepting the
23 communication for at least two years and shall be available for
24 public inspection during normal business hours.

25 d. As used in this section, "communication" means a press
26 release, pamphlet, flyer, form letter, sign billboard or paid
27 advertisement printed in any newspaper or other publication or
28 broadcast on radio or television, or any other form of advertising
29 directed to the electorate.

30 e. The provisions of this section shall not be construed to apply
31 to any bona fide news item or editorial contained in any
32 publication of bona fide general circulation.

33 f. A person who violates a provision of this section shall be
34 subject to the criminal and civil penalties provided for violations
35 of P.L.1973, c.83 (C.19:44A-1 et seq.).

36 g. The Election Law Enforcement Commission shall
37 promulgate rules and regulations pursuant to the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to
39 effectuate the purpose of this act.

40 3. Sections 2 through 5 of P.L.1963, c.57 (C.19:34-38.1 et
41 seq.), P.L.1966, c.70 (C.19:34-38.5), N.J.S.18A:14-97, and
42 N.J.S.18A:14-97.1, N.J.S.18A:14-97.2 and N.J.S.18A:14-97.3 are
43 repealed.

44 4. This act shall take effect immediately.

45

46

47

STATEMENT

48

49 At present, New Jersey law requires campaign advertising
50 materials to disclose the name and address of the person causing
51 the material to be printed, copied or published, or of the person
52 paying for the printing, copying or publishing, as well as the name
53 and address of the person who prints, copies or publishes the
54 material. However, the constitutionality of these provisions has

1 been called into question by the recent decision of the United
2 States Supreme Court in McIntyre v. Ohio, 63 U.S.L.W. 4279 (U.S.
3 April 19, 1995) (No. 93-986) which held that a similar Ohio law
4 abridged freedom of speech. The McIntyre decision,
5 nevertheless, acknowledged that a more narrowly-drawn statute,
6 particularly one which promotes a state's interest in enforcing
7 its campaign finance laws, may be permissible. This bill would
8 repeal the existing campaign advertising laws and require, within
9 the bounds permitted by the Supreme Court, that certain limited
10 disclosures be required on campaign advertising materials in
11 furtherance of the State's compelling interest in preventing
12 actual or perceived corruption in the area of campaign finance.

13 At present, expenditures aiding or promoting the nomination,
14 election or defeat of any candidate or the passage or defeat of
15 any public question, or providing political information on any
16 candidate or public question, are required to be reported to the
17 Election Law Enforcement Commission (ELEC) pursuant to "The
18 New Jersey Campaign Contributions and Expenditures Reporting
19 Act," N.J.S.A.19:44A-1 et seq. The bill provides that whenever
20 any committee, group or person makes an expenditure which must
21 be reported to ELEC, the communication must clearly state the
22 name and business or residence address of the committee, group
23 or individual in the same manner as that information appears on
24 reports filed with ELEC. The purpose of this disclosure is to
25 prevent the possible circumvention of the campaign expenditure
26 reporting requirements which could result from the large-scale
27 dissemination of anonymous campaign materials. The bill defines
28 "communication" to include a press release, pamphlet, flyer,
29 form letter, sign, billboard or paid advertisement printed in any
30 newspaper or other publication or broadcast on radio or
31 television, or any other form of advertising directed at the
32 public. The bill would not apply to any bona fide news item or
33 editorial contained in any publication of bona fide general
34 circulation. The bill also provides that a person who accepts
35 compensation for disseminating a communication must keep a
36 record of the communication for two years thereafter.

37 A person who violates a provision of the bill would be subject
38 to the criminal and civil penalties applicable to other violations
39 of the campaign finance laws. ELEC is directed to promulgate
40 regulations effectuating the bill. The following would be
41 repealed: sections 2 through 5 of P.L.1963, c.57 (C.19:34-38.1 et
42 seq.), P.L.1966, c.70 (C.19:34-38.5), N.J.S.18A:14-97, and
43 N.J.S.18A:14-97.1, N.J.S.18A:14-97.2 and N.J.S.18A:14-97.3.

44

45

46

47

48 Revises law concerning campaign advertising disclosures.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 981

STATE OF NEW JERSEY

DATED: JANUARY 23, 1995

The Senate State Government Committee reports favorably Senate, No. 981.

This bill updates the law governing disclosures made in connection with campaign advertisements and related materials and transfers responsibility for policing these requirements from the Attorney General to the Election Law Enforcement Commission (ELEC).

Current law requires that campaign material must bear the name and address of the person causing the item to be "printed, copied or published," or paying therefor, and the name and address of the person by whom the material is printed, copied or published. It also requires the printer to keep a record of the campaign material available for public inspection for a period of two years. The existing law authorizes the Attorney General to seize material held for distribution in violation of the law and, with court approval, to destroy such material.

The bill would repeal the existing law and provide instead that whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee makes an expenditure for the purpose of financing a communication directed to the electorate, the communication must state the name and address of the committee making the expenditure and that it has been paid for by that committee. It would also provide that whenever any other group or individual makes an expenditure for the purpose of financing a communication which urges the election or defeat of a candidate for any elective public office or the passage or defeat of a public question, the communication must state the name and address of the group or individual making the expenditure and that it has been paid for by that group or individual.

In addition, a communication financed by an independent expenditure shall state that it was made without the consent or cooperation of a candidate or any person or committee acting on behalf of a candidate. These requirements would apply to all forms of communication including printed materials, signs and paid advertisements which are published or broadcast. The bill would not apply to any bona fide news item or editorial. The bill also requires a person accepting compensation in connection with printing or broadcasting a communication to keep a record of the transaction and the communication for two years.

The ELEC is directed to promulgate regulations implementing the bill. The bill also authorizes ELEC to exempt from disclosure requirements small, tangible items used in political campaigns such as buttons, combs and nail files as well as certain advertisements in political program books used at fund-raising.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, Nos. 981 and 2230

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 1995

The Senate State Government Committee reports favorably a Senate Committee Substitute for Senate Bill Nos. 981 and 2230.

At present, New Jersey law requires campaign advertising materials to disclose the name and address of the person causing the material to be printed, copied or published, or of the person paying for the printing, copying or publishing, as well as the name and address of the person who prints, copies or publishes the material. However, the constitutionality of the relevant current law has been called into question by the recent decision of the United States Supreme Court in McIntyre v. Ohio, 63 U.S.L.W. 4279 (U.S. April 19, 1995) (No. 93-986) which held that a similar Ohio law abridged freedom of speech. The McIntyre decision, nevertheless, acknowledged that a more narrowly-drawn statute, particularly one which promotes a state's interest in enforcing its campaign finance laws, may be permissible. This committee substitute would repeal the existing campaign advertising laws and require, within the bounds permitted by the Supreme Court, that certain limited disclosures be required on campaign advertising materials in furtherance of the State's compelling interest in preventing actual or perceived corruption in the area of campaign finance.

Currently, expenditures aiding or promoting the nomination, election or defeat of any candidate or the passage or defeat of any public question, or providing political information on any candidate or public question, are required to be reported to the Election Law Enforcement Commission (ELEC) pursuant to "The New Jersey Campaign Contributions and Expenditures Reporting Act," N.J.S.A.19:44A-1 et seq. The committee substitute provides that whenever any committee, group or person makes an expenditure which must be reported to ELEC, the communication must clearly state the name and business or residence address of the committee, group or individual in the same manner as that information appears on reports filed with ELEC. The purpose of this disclosure is to prevent the possible circumvention of the campaign expenditure reporting requirements which could result from the large-scale dissemination of anonymous campaign materials. The committee substitute defines "communication" to include a press release, pamphlet, flyer, form letter, sign, billboard or paid advertisement printed in any newspaper or other publication or broadcast on radio or television, or any other form of advertising directed at the public. Its provisions would not apply to any bona fide news item or editorial contained in any publication of bona fide general circulation. The committee substitute also provides that a person who accepts compensation for disseminating a communication must keep a record of the communication for two years thereafter.

A person who violates a provision of the legislation would be subject to the civil penalties provided in section 22 of P.L.1973, c.83 (C.19:44A-22). A person who purposely and with intent to conceal or misrepresent information required by this committee substitute to be disclosed or maintained on file would be guilty of a crime of the fourth degree.

ELEC is directed to promulgate regulations effectuating the committee substitute. ELEC would have the authority to exempt, by regulation, certain small tangible items of de minimis monetary value and certain advertisements in political program books distributed at fund-raising events from the legislation's disclosure requirements. ELEC would also have the authority to provide, by regulation, that a communication need not include the address of a committee, group or person financing a communication in circumstances where the name of a committee, group or person would be sufficient to identify it from ELEC's records.

The committee substitute would also amend existing law to increase the threshold for reporting independent expenditures to ELEC from \$200 to \$500. This threshold would also be applicable to the disclosures in connection with communications financed by independent expenditures.

The following would be repealed: sections 2 through 5 of P.L.1963, c.57 (C.19:34-38.1 et seq.), P.L.1966, c.70 (C.19 34-38.5), N.J.S.18A:14-97, and N.J.S.18A:14-97.1, N.J.S 18A:14-97.2 and N.J.S.18A:14-97.3.