



**STATE OF ARKANSAS**  
**THE ATTORNEY GENERAL**  
**LESLIE RUTLEDGE**

Opinion No. 2015-083

July 24, 2015

David A. Couch  
Attorney at Law  
1501 North University, Suite 228  
Little Rock, Arkansas 72207

Dear Mr. Couch:

**Neither certification nor rejection of a popular name and ballot title reflects my view of the merits of the proposal. This Office has been given no authority to consider the merits of any measure.**

This is in response to your request for recertification of the ballot title initially submitted by Paul Spencer, Regnat Populus, on May 28, 2015. This office certified the popular name as submitted and revised and substituted the ballot title on June 11, 2015, as evidenced by Opinion No. 2015-059. On July 10, 2015, we received your request for recertification based upon your concerns that the ballot title does not sufficiently address the effect of the measure on legislative questions. The initially proposed popular name and the text of the proposed initiative have not changed. You have revised the ballot title and submitted the following proposed popular name and ballot title for my certification:

Popular Name

The Campaign Finance Act of 2016

Ballot Title

This Act amends Arkansas law regarding campaign finance in the following six ways:

- (1) First, the Act creates two new categories of election-related spending by expanding the definition of what is currently called an “independent expenditure.” Currently, Arkansas law defines an “independent expenditure” as an expenditure (a) that is not a “contribution,” which current law separately defines (b) that expressly advocates the election or defeat of a clearly identified candidate for office, and (c) that is made without arranging, cooperating, or consulting with any candidate or his or her authorized committee or agent. This Act expands the definition of “independent expenditure” to also include two additional kinds of election-related speech. First, it expands the definition to include expenditures for communications that functionally advocate for or against a candidate. This means that, though the communication effectively urges a vote for or against a candidate, the communication does not expressly do so. Second, this Act expands the definition of “independent expenditure” to include expenditures for communications, without regard to whether they advocate (expressly or functionally) for the election of a clearly-identified candidate for office, if they occur within 60 days of the election, and target a certain number of the candidate’s electorate.
- (2) Second, the Act requires that a person who makes a payment or promises to pay at least \$2,000 in the aggregate in a calendar year for any of the foregoing kinds of independent expenditures must report electronically to the Secretary of State or County Clerk (whichever is appropriate, depending on the office) (a) the amount of the payment, (b) the elections to which the payment pertains, (c) the names of the candidates identified, (d) the name, address, occupation of the person who made (or will make) the payment.
- (3) Third, this Act requires that a person who receives contributions of at least \$500 in the aggregate in a calendar year for the purpose of making independent expenditures must file reports with the Secretary of State or County Clerk (whichever is appropriate) according to the same quarterly and monthly schedule that currently applies to candidates for office.
- (4) Fourth, this Act requires that, within 60 days of an election, a person or committee that receives at least \$500 in a calendar

year for the purpose of making independent expenditures must file additional reports electronically with the Secretary of State or County Clerk (whichever is appropriate) for each additional independent expenditure of at least \$2,000 in the aggregate. These reports must include certain specified information, including (among other things) the name, address, place of business, employer, and occupation of any person who contributed at least \$200 to the person making the expenditure.

- (5) Fifth, this Act requires persons who raise or spend \$2,000 or more during a reporting period for independent expenditures communications, or advertisements for or against ballot questions or legislative questions, to establish and maintain a "Disclosure Internet Web site" that identifies the contributors who gave the top 10 largest cumulative contributions.
- (6) Sixth, this Act requires that independent expenditure advertisements, or advertisements for or against ballot questions or legislative questions, whether made by mass mailings or on video, television, radio, telephone, or in print, contain specific information about the "Top Funders" of that communication.

In addition, this Act also proposes a resolution that calls upon the Congressional Delegation of Arkansas to support, and the Arkansas General Assembly to ratify, an amendment to the United States Constitution clarifying the power of Congress and the States to regulate and set reasonable limits on the raising and spending of money by candidates and others to influence elections, and in so doing, to distinguish between natural persons and corporations or other artificial entities created by law, including by prohibiting such entities from spending money to influence elections.

The Attorney General is required, pursuant to Ark. Code Ann. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General may, if practicable, substitute and certify a more suitable and correct popular name and ballot title. Or, if the proposed popular name and ballot title are sufficiently misleading, the Attorney General may reject the entire petition.

Section 7-9-107 neither requires nor authorizes the Attorney General to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, consistent with Arkansas Supreme Court precedent, unless the measure is “clearly contrary to law,”<sup>1</sup> the Attorney General will not require that a measure’s proponents acknowledge in the ballot title any possible constitutional infirmities. As part of my review, however, I may address constitutional concerns for consideration by the measure’s proponents.

Consequently, this review has been limited primarily to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the popular name and ballot title you have submitted accurately and impartially summarize the provisions of your proposed amendment.

**The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.**<sup>2</sup>

The popular name is primarily a useful legislative device.<sup>3</sup> It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal.<sup>4</sup> The popular name is to be considered together with the ballot title in determining the ballot title’s sufficiency.<sup>5</sup>

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented.<sup>6</sup> According to the Court, if information omitted from the ballot title is an “essential fact which

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<sup>1</sup> See *Kurrus v. Priest*, 342 Ark. 434, 445, 29 S.W.3d 669, 675 (2000); *Donovan v. Priest*, 326 Ark. 353, 359, 931 S.W.2d 119, 121 (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992).

<sup>2</sup> See *Arkansas Women’s Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 846 (1984).

<sup>3</sup> *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

<sup>4</sup> E.g., *Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958).

<sup>5</sup> *May v. Daniels*, 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

<sup>6</sup> *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980).

would give the voter serious ground for reflection, it must be disclosed.”<sup>7</sup> At the same time, however, a ballot title must be brief and concise (*see* Ark. Code Ann. § 7-9-107(b)); otherwise voters could run afoul of Ark. Code Ann. § 7-5-309’s five-minute limit in voting booths when other voters are waiting in line.<sup>8</sup> The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke.<sup>9</sup> The title, however, must be free from any misleading tendency, whether by amplification, omission, or fallacy; it must not be tinged with partisan coloring.<sup>10</sup> The ballot title must be honest and impartial,<sup>11</sup> and it must convey an intelligible idea of the scope and significance of a proposed change in the law.<sup>12</sup>

Furthermore, the Court has confirmed that a proposed amendment cannot be approved if “[t]he text of the proposed amendment itself contribute[s] to the confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed measure.”<sup>13</sup> The Court concluded that “internal inconsistencies would inevitably lead to confusion in drafting a popular name and ballot title and to confusion in the ballot title itself.”<sup>14</sup> Where the effects of a proposed measure on current law are unclear or ambiguous, it is impossible for me to perform my statutory duty to the satisfaction of the Arkansas Supreme Court without clarification of the ambiguities.

Applying the above precepts, I conclude that your popular name and ballot title should be and are hereby certified as submitted.

In my view, the purpose of your proposed measure is sufficiently stated in the ballot title as submitted. Nevertheless, I believe a cautionary note is warranted due

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<sup>7</sup> *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

<sup>8</sup> *Id.* at 288, 884 S.W.2d at 944.

<sup>9</sup> *Id.* 293, 884 S.W.2d at 946–47.

<sup>10</sup> *Id.* at 284, 884 S.W.2d at 942.

<sup>11</sup> *Becker v. McCuen*, 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

<sup>12</sup> *Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 245, 884 S.W.2d 605, 607 (1994) (internal quotations omitted).

<sup>13</sup> *Roberts v. Priest*, 341 Ark. 813, 825, 20 S.W.3d 376, 383 (2000).

<sup>14</sup> *Id.*

to the significance of the subject matter undertaken—significant changes to Arkansas’s campaign-finance regulations—and the complexity and far-reaching effects of this proposal. You should be aware that according to my experience there is a direct correlation between the complexity of initiated measures and their susceptibility to a successful ballot-title challenge. Any ambiguity in the text of a measure could lead to a successful challenge.

Pursuant to Ark. Code Ann. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Arkansas Constitution and of the associated penalties for violations. Enclosed herewith, over the signature of the Attorney General, are instructions that should be incorporated in your petition prior to circulation.

Sincerely,



LESLIE RUTLEDGE  
Attorney General

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Enclosures

## Instructions to Canvassers and Signers

1. The Arkansas Constitution gives Arkansas citizens the power to (a) initiate legislation by petition of 8% of the legal voters or constitutional amendments by petition of 10% of legal voters, or (b) order the referendum against any general act or any item of an appropriation bill or measure passed by the General Assembly by petition of 6% of legal voters. A proposed measure must be submitted at a regular election; referendum petitions may be referred at special elections on petition of 15% of the registered voters. Any measure submitted to the people becomes law when approved by a majority of the votes cast on the measure.
2. Only registered voters may sign. All signatures must be in the signer's own handwriting and in the presence of the person circulating the petition. The petition should contain only the signatures of voters residing in a single county.
3. Printed name, date of birth, residence, city or town of residence, and date of signing must be given as an aid to verification. If a petition signer needs assistance with this information due to disability, another person may print the signer's information and that person shall sign and print their name in the margin of the petition.
4. Do not attach additional sheets to this petition unless they contain the full language of the petition. The signature section of the petition must be formatted as prescribed by the Secretary of State.
5. Pursuant to section 5-55-601(b) of the Arkansas Code, each of the following activities constitutes "petition fraud," which is a Class A misdemeanor and is punishable by a fine of up to \$1,000 and imprisonment for up to one year:

A person commits the offense of petition fraud:

- (1) If the person knowingly:
  - (A) Signs a name other than his or her name to a petition;
  - (B) Signs his or her name more than one (1) time to a petition; or
  - (C) Signs a petition when he or she is not legally entitled to sign the petition;
- (2) If the person acting as a canvasser, notary, sponsor as defined under § 7-9-101, or agent of a sponsor:
  - (A) Signs a name other than his or her own to a petition;
  - (B) Prints a name, address, or birth date other than his or her own to a petition unless the signor requires assistance due to disability and the person complies with § 7-9-103;
  - (C) Solicits or obtains a signature to a petition knowing that the person signing is not qualified to sign the petition;
  - (D) Knowingly pays a person any form of compensation in exchange for signing a petition as a petitioner;
  - (E) Accepts or pays money or anything of value for obtaining signatures on a petition when the person acting as a canvasser, sponsor, or agent of a sponsor knows that the person acting as a canvasser's name or address is not included on the sponsor's list filed with the Secretary of State under § 7-9-601; or
  - (F) Knowingly misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing a person to sign a petition;
- (3) If the person acting as a canvasser knowingly makes a false statement on a petition verification form; [or]  
\* \* \*
- (5) If the person acting as a sponsor files a petition or a part of a petition with the official charged with verifying the signatures knowing that the petition or part of the petition contains one (1) or more false or fraudulent signatures unless each false or fraudulent signature is clearly stricken by the sponsor before filing.

The Attorney General is by law required to certify the sufficiency of the popular name and ballot title of all initiative or referendum petitions. This certification does not necessarily indicate the approval or disapproval of the contents thereof.



LESLIE RUTLEDGE  
Attorney General of the State of Arkansas

## **Ballot Title**

This Act amends Arkansas law regarding campaign finance in the following six ways:

(1) First, the Act creates two new categories of election-related spending by expanding the definition of what is currently called an "independent expenditure." Currently, Arkansas law defines an "independent expenditure" as an expenditure *(a)* that is not a "contribution," which current law separately defines *(b)* that expressly advocates the election or defeat of a clearly identified candidate for office, and *(c)* that is made without arranging, cooperating, or consulting with any candidate or his or her authorized committee or agent. This Act expands the definition of "independent expenditure" to also include two additional kinds of election-related speech. First, it expands the definition to include expenditures for communications that functionally advocate for or against a candidate. This means that, though the communication effectively urges a vote for or against a candidate, the communication does not expressly do so. Second, this Act expands the definition of "independent expenditure" to include expenditures for communications, without regard to whether they advocate (expressly or functionally) for the election of a clearly-identified candidate for office, if they occur within 60 days of the election, and target a certain number of the candidate's electorate.

(2) Second, this Act requires that a person who makes a payment or promises to pay at least \$2,000 in the aggregate in a calendar year for any of the foregoing kinds of independent expenditures must report electronically to the Secretary of State or County Clerk (whichever is appropriate, depending on the office) *(a)* the amount of the payment, *( b)* the elections to which the payment pertains, *(c)* the names of the candidates identified, *(d)* the name, address, occupation of the person who made (or will make) the payment.

(3) Third, this Act requires that a person who receives contributions of at least \$500 in the aggregate in a calendar year for the purpose of making independent expenditures must file reports with the Secretary of State or County Clerk (whichever is appropriate) according to the same quarterly and monthly schedule that currently applies to candidates for office.

( 4) Fourth, this Act requires that, within 60 days of an election, a person or committee that receives at least \$500 in a calendar year for the purpose of making independent expenditures must file additional reports electronically with the Secretary of State or County Clerk (whichever is appropriate) for each additional independent expenditure of at least \$2,000 in the aggregate. These reports must include certain specified information, including (among other things) the name, address, place of business, employer, and occupation of any person who contributed at least \$200 to the person making the expenditure.

(5) Fifth, this Act requires certain persons who raise or spend \$2,000 or more during a reporting period for independent expenditures communications, or advertisements for or against ballot questions or legislative questions, to establish and maintain a "Disclosure Internet Web site" that identifies the contributors who gave the top 10 largest cumulative contributions.

(6) Sixth, this Act requires that independent expenditure advertisements, or advertisements for or against ballot questions or legislative questions, whether made by mass mailings or on video, television, radio, telephone, or in print, contain specific information about the "Top Funders" of that communication.

In addition, this Act also proposes a resolution that calls upon the Congressional Delegation of Arkansas to support, and the Arkansas General Assembly to ratify, an amendment to the United States Constitution clarifying the power of Congress and the States to regulate and set reasonable limits on the raising and spending of money by candidates and others to influence elections, and in so doing, to distinguish between natural persons and corporations or other artificial entities created by law, including by prohibiting such entities from spending money to influence elections.

## Popular Name

### THE CAMPAIGN FINANCE ACT OF 2016

#### **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 in our elections;

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

#### **Section 1: Disclosure of Sources of Campaign Expenditures**

##### **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) "Disclosure Internet Web site" means a person's or committee's Internet Web site for a specific campaign that discloses the top identifiable contributors to that person or committee for that campaign, as described in §7-6-228.

*A.C.A. §7-6-201, re-numbered paragraph (12), "Independent Expenditure" is repealed and replaced as follows:*

(12)(A) An "independent expenditure" means any expenditure for a communication which is not a contribution and which:

- (i) Refers to a clearly identified candidate for state or local elective office; and

(ii) Is made without arrangement, cooperation, or consultation between any candidate or any authorized committee or agent of a candidate and the person making the expenditure or any authorized agent of that person, and is not made in concert with or at the request or suggestion of any candidate or any authorized committee or agent of the candidate; and

(iii) Satisfies at least one of the following standards:

(a) Contains express advocacy, or its functional equivalent because it is suggestive of no reasonable meaning other than an exhortation to vote for or against a candidate, for the election or defeat of a clearly identified candidate for office; or

(b) Is disseminated, broadcast or otherwise published within 60 days of the election sought by a candidate, mentions a candidate and targets the candidate's relevant electorate. For purposes of this sub-paragraph, a communication "targets the candidate's relevant electorate" if it can be received by:

(i) For broadcast, cable, satellite or electronic communications: 15,000 or more individuals in the state 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" in the state for statewide office, or 5 percent of the jurisdiction's "households" or 500 or more "households," whichever is less, for other offices.

(B) "Independent Expenditure" does not include—

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

(ii) 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;

(iii) 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

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

### **SECTION 103. Reporting of independent expenditures.**

*A.C.A. §7-6-220 of Title 7, Chapter 6, Subchapter 2, is repealed and replaced as follows:*

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

(a) A person who is not subject to §7-6-220(b) and who makes a payment or a promise of payment aggregating two thousand dollars (\$2,000) or more in any calendar year for an independent expenditure shall file electronically within 48 hours of making the payment

or the promise to make the payment a report with the Secretary of State or County Clerk, whichever is appropriate. Such report shall include:

- (1) The name of the person, address, occupation, and employer, and amount of the payment; and
  - (2) The elections to which the independent expenditures pertain and the names of the candidates identified or to be identified.
- (b) A person who receives contributions in an aggregate amount or value in excess of five hundred dollars (\$500) in a calendar year which were made, solicited or used in whole or part for the purpose of making independent expenditures, regardless of whether such contributions were made or solicited for specific independent expenditures, 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 electronically with the Secretary of State or County Clerk, whichever is appropriate, a report of each additional independent expenditure in the aggregate of two thousand dollars (\$2,000) or more within 48 hours of such expenditure. 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 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) The principal place of business of the person making the independent expenditure, if not an individual;
  - (4) The name and address of each person who made a contribution or contributions that in the aggregate exceeded two hundred dollars (\$200) during the reporting period, the contributor's place of business, employer, occupation, and date of the contribution and the amount contributed;
  - (5) The name and address of each person who contributed a non-money item, together with a description of the item, the date of receipt, and the value, not including volunteer service by individuals;
  - (6) Donors who made a contribution or contributions that in the aggregate exceeded two hundred dollars (\$200) during the reporting period to a person making independent expenditures, other than a committee, need not be disclosed if the donation was specifically earmarked not to be used for an independent expenditure and in fact was not used in whole or in part for an independent expenditure.

(7) An itemization of all single expenditures made which exceed one hundred dollars (\$100), including the amount of the expenditure, the name and address of any person to whom the expenditure was made, and the date the expenditure was made;

(8) The elections to which the independent expenditures pertain and the names of the candidates identified or to be identified.

(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.

(2) 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.

(d) (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 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 104. Disclosure of top funders of political advertisements.**

*A new A.C.A. §7-6-228 and §7-6-229 are added to Title 7, Chapter 6, Subchapter 2, as follows:*

§7-6-228. Disclosure Internet Web site. A person or committee subject to §7-6-220(b) that has made independent expenditures of two thousand dollars (\$2,000) or more during a reporting period, or a person or committee that has made expenditures of \$2,000 or more for advertising for or against a ballot question or legislative question during a reporting period, shall establish and maintain a disclosure Internet Web site. If the committee has an Internet Web site, that Internet Web site may also serve as the disclosure Internet Web site. The homepage of the disclosure Internet Web site and any landing pages that visitors are directed to on the disclosure Internet Web site and any other Internet Web sites maintained by the person or committee shall include a disclosure area that satisfies all of the following:

(a) The disclosure area shall include the text "Top Funders" during the election located at the top of the disclosure area and centered horizontally in the disclosure area.

(b) Immediately below the text described in subdivision (a), the disclosure area shall include a list of the identifiable contributors who have made the 10 largest cumulative contributions to the committee during the election. If there are fewer than 10 identifiable

contributors, the disclosure area shall be adjusted accordingly. Each identifiable contributor shall 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.

§7-6-229. Disclosure of top funders of independent expenditure advertisements or advertisements for or against ballot questions or legislative questions.

- (a) An independent expenditure advertisement, or advertisement for or against a ballot question or legislative question, that is a radio advertisement or prerecorded telephonic message shall include a statement 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 lists the top three funders and 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, 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;
  - (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;
  - (3) The text “Paid for by [name of the committee that paid for the advertisement]”; 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, 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.
  - (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.
  - (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.
    - (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) shall 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].”
  - (5) The text “Paid for by [name of the person or committee that paid for the advertisement].”
  - (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 disclaimers 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 that reads as follows:

Section 1. To advance democratic self-government and political equality, and to protect the integrity of government and the electoral process, Congress and the States may regulate and set reasonable limits on the raising and spending of money by candidates and others to influence elections.

Section 2. Congress and the States shall have power to implement and enforce this article by appropriate legislation, and may distinguish between natural persons and corporations or other artificial entities created by law, including by prohibiting such entities from spending money to influence elections.

Section 3. Nothing in this article shall be construed to grant Congress or the States the power to abridge the freedom of the press.

### **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.