

NEW MEXICO SECRETARY OF STATE

RULE HEARING

Held August 30, 2017

State Capitol Building

490 Old Santa Fe Trail, Room 321

Santa Fe, New Mexico 87501

9:05 a.m. to 10:39 a.m.

REPORTED BY:Jeannine K. Sims, NM CR #12
Paul Baca Professional Court Reporters
500 Fourth Street NW, Suite 105
Albuquerque, New Mexico 87102

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

PAGE

CERTIFICATE OF COMPLETION OF RECORD 67

EXHIBITS

PAGE

EXHIBIT 1 8
Notice published in the New Mexico Register
EXHIBIT 2 8
Notice published in the Santa Fe New
Mexican
EXHIBIT 3 8
Notice published in the Albuquerque Journal
EXHIBIT 4 9
Proposed revised rule
EXHIBIT 5 9
All written comment(s)
EXHIBIT 6 25
Leland Taylor statement to SOS
EXHIBIT 7 65
Attendance sheet

1 HEARING OFFICER LANGE: This hearing will
2 now come to order. Today is August 30th, 2017. The time
3 is 9:05 a.m., and we are assembled at the State Capitol
4 Building, Room 321, in Santa Fe, New Mexico. I'm Dylan
5 Lange, Assistant Attorney General. I'll be acting as
6 presiding for this public comment rule hearing.

7 The purpose of this hearing public is for
8 the New Mexico Office of the Secretary of State to
9 receive public comments, views, argument, testimony, and
10 data on its proposed rule to be codified as 1.10.13 NMAC.
11 The Secretary of State welcomes everyone present at the
12 hearing whether in person or remotely.

13 MS. TOULOUSE OLIVER: Good morning. I'm
14 Maggie Toulouse Oliver, Secretary of State. I just
15 wanted to thank everybody who's here today and we look
16 forward to hearing your comments and appreciate your
17 participation in the process. So thank you.

18 MS. FRESQUEZ: Real quick if I may. My name
19 is Kari Fresquez, I'm the State Elections Director and I
20 work for Maggie Toulouse Oliver, our Secretary of State.
21 And I wanted to spend a couple of minutes explaining what
22 I think most people are aware.

23 There was a version 1 of the proposed rule.
24 We had three hearings and a lot of public comment
25 resulting from that process. So this is now our fourth

1 hearing on a revised version of the rule. That
2 version -- the version that we're considering in this
3 hearing today was revised based on commentary received
4 through the last iteration of the public comment process.

5 I wanted to spend just a minute discussing
6 some of the highlights of the distinction from the
7 original proposed rule to the now revised rule that's
8 being considered today.

9 First and probably most significantly, there
10 were several definitions in the rule that were either
11 added or modified in an attempt to bring clarity. Some
12 of the public comments received before led us to think
13 there was confusion or some ambiguity in some of the
14 wording or some of our definitions.

15 So we added and/or clarified definitions
16 such as "donor," "election cycle," "primary purpose,"
17 "expressly advocate," and "in-kind contribution."

18 Also, the Secretary of State adjusted the
19 expenditure thresholds that trigger the disclosure of
20 independent expenditures such that reporting thresholds
21 for advocacy related to statewide candidates or statewide
22 ballot measures is higher than for non-statewide.

23 And finally, other modifications made and
24 including several examples to the section related to
25 coordinated expenditures to bring clarity to what would

1 be considered a coordinated expenditure and how a
2 candidate should report on that. Thank you.

3 HEARING OFFICER LANGE: This hearing will be
4 conducted pursuant to and in accordance with NMSA 1978
5 Section 1-19-26.2, which authorizes Secretary of State to
6 adopt and promulgate rules and regulations to implement
7 the provisions of the Campaign Reporting Act, the APA and
8 NMSA Chapter 12, Article 8 and the State Rules Act,
9 Chapter 14, Article 4.

10 Public notice of this hearing was advised --
11 advertised in the New Mexico Register on July 25th, 2017,
12 and in the Albuquerque Journal and Santa Fe New Mexican
13 on June 30th, 2017.

14 Copies of the proposed rules have been
15 available at the Secretary of State's Office since the
16 notices were published. Copies of the proposed rules
17 were also published on the Secretary of State's website
18 and were available to anyone who requested them as of
19 July 30, 2017.

20 Copies of the proposed rules are also
21 available to the public attending this hearing and they
22 are available on the back on the tables. The hearing is
23 also being live streamed on the Secretary of State's
24 website at <http://www.sos.state.nm.us>.

25 I'll ask all members in attendance today to

1 please silence their cell phones. I will do the same.
2 And ask that any extended conversations be held outside
3 the room.

4 May I remind everyone to please sign the
5 attendance sheet that is -- when you first came into the
6 room. This will be entered as an exhibit into today's
7 hearing. Let the record show that staff from the
8 Secretary of State's Office is present. Secretary of
9 State Maggie Toulouse Oliver, Deputy Secretary of State
10 John Blair, Elections Director and Chief Information
11 Officer Kari Fresquez, along with other members who are
12 here as well.

13 This is a formal proceeding and a court
14 reporter has been designated to transcribe the
15 proceedings. The transcript from this hearing will
16 become part of the rule hearing record; therefore persons
17 recognized to testify or offer comments are asked to
18 identify themselves clearly each time you address the
19 presiding officer. Speak loudly and clearly so that the
20 recorder can pick up all of your comments.

21 The hearing will be conducted in the
22 following manner: Secretary of State's Office staff will
23 present exhibits, I'll rule on admissibility. Exhibits
24 admitted into evidence are available for review by
25 members of the public.

1 After staff offers exhibits and their
2 admission has been ruled upon I will open the hearing for
3 testimony and comments from the audience. If you have
4 indicated that you would like to testify you should have
5 signed your name on the corresponding attendance sheet.

6 So if you intend to speak about Part 7,
7 Definitions, you should be signed up on the corresponding
8 sign-in sheet.

9 We will proceed in numerical sequence
10 through each part of the proposed rule. I will call
11 individuals to testify in order that they have signed up.
12 After public comment is given on a specific section of
13 the Campaign Reporting Act I will call for general public
14 comment.

15 If you would like to give general comment
16 about the rule, please save your comment until the
17 general comment period. There will be enough time.

18 This Secretary of State's Office and this
19 rule hearing will not follow the rules of evidence but
20 shall in the interest of efficiency reserve the right to
21 limit all exhibits, testimony, commentary, or other
22 evidence deemed irrelevant, redundant, or unduly
23 repetitious.

24 The decision as to whether such exhibits are
25 -- or commentary are irrelevant, redundant or unduly

1 repetitious shall be made by me, the presiding officer.

2 May I have a show of hands of the number of
3 people who intent to testify or comment on the proposed
4 rules today. Thank you. All right.

5 Well, this public hearing is now open. The
6 Secretary of State will offer exhibits to introduce at
7 this time. And we will enter them into exhibits.

8 Ms. Fresquez.

9 MS. FRESQUEZ: Mr. Lange, today we have the
10 Notice of Rule Hearing that was published in the New
11 Mexico Register on July 25th to enter.

12 (Marked Exhibit No. 1.)

13 MS. FRESQUEZ: And we also have a Notice of
14 Rule Hearing published in the Santa Fe New Mexican.

15 (Marked Exhibit No. 2.)

16 MS. FRESQUEZ: And a Notice of Hear -- of
17 Rule Hearing published in the Albuquerque Journal to
18 submit into evidence. That's all today.

19 (Marked Exhibit No. 3.)

20 HEARING OFFICER LANGE: Thank you.

21 MS. FRESQUEZ: Do you need me to enter the
22 new version of the rule?

23 HEARING OFFICER LANGE: Yes. We'll I guess
24 offer that as -- we'll introduce as Exhibit 4 the
25 proposed rule to be codified today as Exhibit 4.

1 (Marked Exhibit No. 4.)

2 HEARING OFFICER LANGE: And also all -- all
3 written comment we received prior to today's hearing will
4 be entered all as one as Exhibit 5. Be part of the
5 record.

6 MS. FRESQUEZ: Okay.

7 (Marked Exhibit No. 5.)

8 HEARING OFFICER LANGE: Any persons here
9 today wishing to offer written comment may do so after
10 being recognized by me. We'll enter it into the record.
11 I ask any person who will be testifying or commenting at
12 this hearing to please rise to be sworn in. So if you
13 are planning on testifying please rise.

14 (All witnesses are sworn in.)

15 HEARING OFFICER LANGE: Thank you. Let the
16 record reflect that all persons intending to testify or
17 comment at this hearing have been sworn or affirmed that
18 his or her commentary or testimony will be truthful.

19 I will now open the floor to the audience
20 for testimony and comments on each part of the rule. The
21 audience may ask clarifying questions to each person
22 after providing his or her -- his or her testimony or
23 commentary.

24 Again, another show of hands part. How many
25 of the people in attendance support the rule just by a

1 show of hands? And how many oppose the rule? Okay. So
2 now we'll go on to the individual sections of the rule.

3 There's only one person who's signed up to
4 speak on Sections 1 through 6 but we'll go ahead and just
5 ensure that we'll call for testimony specifically on
6 Section -- on Part 1, the Issuing Agency, Office of the
7 Secretary of State. No one has signed up to provide
8 testimony on this section. Is there someone in the
9 audience today who would like to give testimony on this
10 part?

11 Seeing none, we'll move to Part 2, Scope.
12 No one has signed up to speak on Part 2, Scope. Is there
13 anyone here in the audience today who would like to give
14 testimony on Scope?

15 Seeing none, we'll move to Part 3, Statutory
16 Authority. No one has signed up to speak on Part 3. Is
17 there someone in the audience here today that would like
18 to speak on Part 3?

19 Seeing none, we'll move to Part 4, Duration.
20 Any public comment on duration?

21 Seeing none, we'll move to Part 5, Effective
22 Date. Is there anyone who would like to give public
23 comment on Effective Date?

24 Seeing none, we'll move to Part 6, the
25 Objective. No one has signed up for Part 6, the

1 Objective. Is there a member of the audience now who
2 would like to provide testimony on Part 6?

3 Seeing none, I do need to note that a T. Tom
4 Taylor has signed up to give testimony on Sections 1
5 through 6. Is -- would you like to give testimony?

6 MR. TAYLOR: Can I move that to the end?

7 HEARING OFFICER LANGE: For general comment
8 period?

9 MR. TAYLOR: Yes.

10 HEARING OFFICER LANGE: Okay. I'll put you
11 on that list to speak on general comments.

12 The next section is Section 7, Definitions.
13 No one has signed up to provide testimony on Section 7,
14 Definitions. Is there a member of the audience who now
15 would like to give testimony on Section 7?

16 Seeing none, we'll move to Section 8,
17 Candidate Campaign Committee Registrations. No one has
18 signed up to provide comment on this section. Is there a
19 member of the audience who would now like to give comment
20 on this section?

21 Seeing none we'll move to Section 9. No one
22 has signed up to provide comment on Section 9,
23 Withdrawing from Candidacy. Is there a member of the
24 audience who would now like to give comment on Section 9?

25 Seeing none, we'll move to Section 10.

1 Ms. Fresquez, will you introduce Section 10, please.

2 MS. FRESQUEZ: Mr. Lange, Section 10,
3 Political Committee Registrations. This section
4 clarifies what entities are considered political
5 entities, including entities operating primarily for a
6 political purpose and the method these political
7 committees shall use in order to register with the
8 Secretary of State and the requirements for committees to
9 keep treasurer and contact information current with the
10 Office.

11 HEARING OFFICER LANGE: Mr. Richard
12 Ellenberg is the first on the list to provide comment.

13 MR. ELLENBERG: Thank you. Richard
14 Ellenberg, Chair of the Democratic Party of New Mexico.
15 I want to address the requirements following the FEC
16 report which would probably apply to the party.

17 And we're unclear what we're supposed to do.
18 First, we're unclear of the timing of filing. It's a
19 deadline, the dates are different for the two. Whether
20 we want to file it at the time we file the credit report
21 or at the time we file the next state report or what the
22 obligation is.

23 And secondly, there's a question we have on
24 how to file it. This system requires electronic filing
25 on the state system. I don't believe our data on the

1 federal system is compatible with that. So I'm unclear
2 whether we could file that with a pdf or email or by what
3 mechanism you would like that put on file. Thank you.

4 HEARING OFFICER LANGE: Thank you. There's
5 no one else signed up to speak on Section 10. Is there a
6 member of the audience who would now like to speak on
7 Section 10? Please come forward, identify yourself,
8 please.

9 MR. GREER: I'm Tom Greer, the state field
10 director for Concerned Veterans for American. And I
11 wasn't planning to comment on this, but I just want to
12 echo the Chairman of the Democratic Party's concern on
13 it's an issue that's come up with a lot of the nonprofits
14 that I've talked to of when to file, how to file, what to
15 file. And I think there is a great deal of confusion
16 still there. Thank you.

17 HEARING OFFICER LANGE: Thank you. Is there
18 any member of the audience who wishes to provide
19 testimony on Part 10?

20 Seeing none, we'll move to Part 11. No one
21 has signed up to speak on Part 11, Reporting of
22 Independent Expenditure. Is there a member of the public
23 who would now like to speak on Part 11?

24 Seeing none, we'll move to Part 12. No one
25 has signed up for Part -- to give testimony on Part 12,

1 General Reporting Rules. Is there a member of the
2 audience who would now like to provide testimony on this
3 part?

4 Seeing none we'll move to Part 13. No one
5 has signed up to provide testimony on Part 13, No
6 Activity. Is there a member of the audience who would
7 now like to give testimony on Part 13?

8 Seeing none, we'll move to Section 14,
9 Supplement Reports. No one has signed up to provide
10 testimony on Part 14, Supplemental Reports. Is there a
11 member of the audience who would now like to provide
12 testimony on Part 14?

13 Seeing none, we'll move to Part 15. No
14 member of the audience has signed up to provide testimony
15 on Part 15, Late Filing of Reports. Is there a member of
16 the audience who would now like to provide testimony on
17 Part 15?

18 Seeing none, we'll move to Part 16, Loans.
19 No one has signed up to provide testimony on Part 16,
20 Loans. Is there a member of the audience who would now
21 like to provide testimony on Part 16, Loans?

22 Seeing none, we'll move to Part 17, Campaign
23 Debts. Ms. Fresquez, will you introduce Part 17, please.

24 MS. FRESQUEZ: Mr. Lange, Section 17,
25 Campaign Debts. This section clarifies that campaign

1 debts may not exceed available campaign funds unless the
2 debt is a loan. And also provides for candidates to
3 collect funds from a previous reporting cycle in order
4 the pay outstanding debts.

5 HEARING OFFICER LANGE: Thank you.

6 Mr. Ellenberg, you were first on the list.

7 MR. ELLENBERG: Thank you. Our concern with
8 this section is little bit of a confusion. It seems to
9 be designed to keep the campaign from having campaign
10 debts other than loans. And then it seems to be designed
11 to help pay them.

12 Our concern is the last few weeks of the
13 campaign when everything's extremely hectic and
14 attempting to make sure that there are funds to cover
15 everything that's happened in a campaign.

16 So that involves a couple of -- assuming you
17 can keep the compliance operation in place. We don't
18 know what "funds" mean. If somebody promises a candidate
19 a check and they're putting it in the mail, is that
20 counted as funds against which expenditures could be
21 made?

22 Or are we talking about funds that have
23 arrived in the office? Are we talking about funds that
24 have cleared a bank account? Just want to make sure that
25 in addition to the problems of just keeping control in

1 the last days of a campaign, that we know clearly what it
2 is that's supposed to be done. Thank you.

3 HEARING OFFICER LANGE: Thank you,
4 Mr. Ellenberg. That's everyone who has signed up to
5 speak on Part 17. Is there a member of the audience who
6 would now like to speak on Part 17, Campaign Debts?
7 Please.

8 MR. TAYLOR: Leland Thomas Taylor. And just
9 in listening to the definition, the use of the term
10 "loan," which is a fairly well-standardized
11 understanding, kind of leads confusion that if a loan is
12 not considered debt then what other forms of debt are
13 there? Which, you know, I'm not quite sure what the
14 intent of that is. Thank you.

15 HEARING OFFICER LANGE: Thank you. Is there
16 any further comment from the audience regarding this
17 section? Please come forward.

18 MR. GREER: Tom Greer, Concerned Veterans of
19 New Mexico. I'd just like to echo again I think just on
20 the record to have a couple more people, you know,
21 talking about this.

22 But it is very confusing, the -- what is
23 considered debt. And also I want to again echo the
24 Chairman of the Democratic Party's concern that a lot of
25 this stuff takes place very fast as you get close to an

1 election date. And some of this seems pretty confusing
2 when you're having to deal with it in the heat of
3 last-minute battles. Thank you.

4 HEARING OFFICER LANGE: Thank you,
5 Mr. Greer. Any further comment from the audience on
6 Section 17, Campaign Debts?

7 Seeing none, we'll move to Section 18,
8 In-Kind Contributions. No one has signed up to provide
9 testimony on Section 18. Is there a member of the public
10 who would now like to provide comment on Section 17,
11 In-Kind Contributions?

12 Seeing none, we'll move to Part 19,
13 Volunteers. Ms. Fresquez, will you introduce Part 19,
14 please.

15 MS. FRESQUEZ: Mr. Lange, Section 19,
16 Volunteers. This section clarifies that volunteer
17 activity is not considered a contribution and allows
18 candidates to reimburse volunteers for out-of-pocket
19 expenses using campaign funds.

20 HEARING OFFICER LANGE: Thank you.
21 Mr. Ellenberg, you are signed up to provide testimony.

22 MR. ELLENBERG: Thank you. I focus on
23 Subpart C, which says out-of-pocket expenses may be
24 reimbursed. Then it has the sentence that such expenses
25 are reportable. So we have two questions. It seems to

1 me this rule treats all out-of-pocket expenses by a
2 volunteer the same; whether I drive my neighbor to a
3 meeting two blocks away or I'm flying somebody in a
4 private jet around the state.

5 Those are all out-of-pocket expenses as I
6 read this and are either covered or not covered and
7 there's no differentiation between them.

8 Then in C, such expenses must be reported.
9 I don't know if "such expenses" is referring to in the
10 first sentence the out-of-pocket expenses or the
11 reimbursements.

12 If it's the reimbursements and the
13 campaign's written a check we can report it. If it's the
14 out-of-pocket expenses that would certainly make
15 everything reportable; if you brew a pot of coffee for a
16 gathering.

17 So I know you've rewritten this one from
18 last time but it's still to me not clear whether we
19 report everything or nothing. And the fact the size of
20 the out-of-pocket expenses doesn't matter at all is a
21 little bit of some concern. Thank you.

22 HEARING OFFICER LANGE: Thank you,
23 Mr. Ellenberg. That's the only name signed up to provide
24 testimony on Part 19, Volunteers. Is there a member of
25 the audience who would like to provide testimony on

1 Part 19?

2 Seeing none, we'll move to Part 20,
3 Contributions. No one has signed up to provide testimony
4 on Part 20, Contributions. Is there a member of the
5 audience who would now like to provide testimony on
6 Part 20?

7 Seeing none, we'll move to Part 21,
8 Designation of Contributions Over the Limit. No one has
9 signed up to provide testimony on Part 20. Is there a
10 member of the audience who would now like to provide
11 testimony on Part 20?

12 Seeing none, we'll move to Part 2 -- that
13 was Part 21. Part 22, no one has signed up to provide
14 testimony on Part 22. Is there a member of the audience
15 today who would like to provide testimony on Part 22,
16 Excessive or Prohibited Contributions?

17 Seeing none, we'll move to Part 23, Date
18 Contribution Made Versus Date of Receipt. No one has
19 signed up to provide testimony on Part 23. Is there a
20 member of the audience who would now like to provide
21 testimony on Part 23?

22 Seeing none, we'll move to Part 24,
23 Earmarking. No one has signed up to provide testimony on
24 Part 24, Earmarking. Is there a member of the audience
25 who would like to provide testimony today about Part 24,

1 Earmarking?

2 Seeing none, we'll move to Part 25,
3 Candidate Expenditures. No one has signed up to provide
4 testimony on candidate expenditures. Is there a member
5 of the audience now who would like to provide testimony
6 on Part 25, Candidate Expenditures?

7 Seeing none, we'll move to Part 26,
8 Charitable Donations. No one has signed up to provide
9 testimony on this part. Is there a member of the
10 audience who would now like to provide testimony on
11 Part 26?

12 Seeing none, we'll move to Part 27, Primary
13 and General Election Cycles for Purposes of Contribution
14 Limits. No one has signed up to provide testimony on
15 this part. Is there a member of the audience who would
16 now like to provide testimony?

17 Seeing none, we'll move to Part 28,
18 Coordinated Expenditures. No one has signed up to
19 provide testimony on this section. Is there a member of
20 the public now who would like to provide testimony on
21 this?

22 Seeing none, we'll move to Part 29, Records
23 Retention. No one has signed up to provide testimony on
24 records retention. Is there a member of the audience who
25 would like to provide testimony on records retention?

1 Seeing none, we'll move to Part 30, Random
2 Report Selections and Report Review Process. No one has
3 signed up to provide testimony on this section. Is there
4 a member of the audience who would now like to provide
5 testimony on Part 30?

6 Seeing none, we'll move to Part 31,
7 Disclaimer Notices on Advertisements. No one has signed
8 up to provide commentary on Part 31. Is there a member
9 of the audience who would now like to provide commentary
10 on Part 31?

11 All right. Seeing no further comments on
12 the specific parts of the rule, I'll now call for general
13 comments. First on the list will be Mr. Taylor. Please
14 come forward. Anyone wishing to give public comment
15 please be sure to remember to identify yourself for the
16 record.

17 MR. TAYLOR: I'm Leland Thomas Taylor, I'm a
18 private citizen with the state of New Mexico and I
19 believe I have First Amendment rights which are slowly
20 being abridged.

21 And my primary question in this is what's
22 the point of this? My understanding is is that the
23 Santa Fe city has a ordinance which is similar to this in
24 nature and is being contested in federal court. And that
25 there are other precedents to limiting this type of

1 restrictive control of our free speech.

2 Furthermore, it appears as though this is an
3 attempt at circumventing the elective process. Because a
4 bill similar to this passed both houses and was vetoed by
5 the Governor.

6 The question is why is this Secretary of
7 State attempting to circumvent the normal legislative
8 process? And what is the ultimate purpose of doing this?
9 It -- already we have difficulty getting turnout for
10 voters. Voter turnout is very low in most of our
11 elections.

12 And by creating an additional set of hurdles
13 for the candidates or any policy actions within the state
14 appears to simply reduce the interest in voting. This is
15 unfortunate because the active voter turnout is necessary
16 for fair and equitable and open elections.

17 Additionally I believe that this action
18 will, if passed in regulations, will immediately trigger
19 a series of legal contests to it. And my question is why
20 does the Secretary of State intend to expend money
21 defending it or even promulgating it when the state has
22 no money?

23 It seems to be strictly a political move
24 which I think is not a good use of our state resources.
25 If the Secretary of State was truly concerned about the

1 state's condition of finances this would not be
2 promulgated, it would not be acted upon.

3 So the bottom line here is that I think it's
4 an unnecessary set of regulations. I'm not sure what the
5 objective is, what it obtains over what the existing sets
6 of regulations are. And why the Secretary of State is
7 setting an unusual precedent to bypass the legislature,
8 which will be contested in court by the legislature.
9 Thank you.

10 HEARING OFFICER LANGE: Thank you,
11 Mr. Taylor. Is there another member of the audience who
12 would like to provide general comments on the rule?

13 So this is -- we're just going to operate as
14 best we can here. We'll make sure everyone has an
15 opportunity to speak. So we'll just start I guess -- who
16 would like to come forward? We'll start from the front
17 and whoever would like to speak please come forward and
18 give your comment. So who's first? Who would be second
19 after Mr. Taylor? Please come forward. Yeah. Thank
20 you.

21 MR. BROWN: My name is Hamilton Brown. I
22 live in Arroyo Seco, New Mexico. I am really concerned
23 about the issue of dark money in politics. People being
24 able to spend money without stating who they are and what
25 their purpose for spending it.

1 It is so ironic that we're having this
2 meeting this week when -- let me just sit down. So
3 ironic that we are meeting during a week when two
4 calamitous events unfold before our eyes.

5 First, we have a president who won an
6 election polluted by hundreds of millions of dollars of
7 dark money. This president who is so unaware of the rule
8 of law and so wrapped up in his narcissistic world view
9 that he pardoned a man who was convicted of breaking the
10 law and who deliberately harassed and abused people of
11 another ethnicity.

12 The same president openly supports white
13 supremacists and neo-nazis who violently oppose the core
14 principles of our country that all men are created equal.

15 Second, we are witnessing a 500-year -- or
16 is it a 5,000-year torrential hurricane that is
17 devastating Houston and much of Texas. Is it not ironic
18 that Houston is the nerve center of the fossil fuel
19 industry that has used its influence and political
20 contributions to obfuscate and prevent our government
21 from addressing the dangers of climate change for
22 decades.

23 Now we get to look forward to watch a group
24 of Republican legislators elected by that same dark money
25 whine and plead with Congress to send hundreds of

1 billions to rebuild their devastated state.

2 These are the same politicians who
3 sanctimoniously refused to support efforts to rebuild New
4 York and New Jersey after Hurricane Sandy just a few
5 years ago.

6 Even if the Coch brothers lived in Houston
7 and devoted all their billions to their community it
8 would not be enough. All of this.

9 We have people who are -- wish to control
10 our country with their dark money and continue to argue
11 their right to buy and control our government. This
12 affront to democracy cannot stand. The rules proposed by
13 our Secretary of State must go into effect. I want to
14 know who has bought the people I voted for. Thank you.

15 HEARING OFFICER LANGE: Thank you,
16 Mr. Brown. Would you like to offer this --

17 MR. BROWN: I would like to offer this into
18 the record.

19 HEARING OFFICER LANGE: As public comment?
20 Okay. I will mark this as Exhibit 6. The record.

21 (Marked Exhibit No. 6.)

22 HEARING OFFICER LANGE: And call for the
23 next public comment.

24 MR. MADDEN: Good morning. My name is Tom
25 Madden. I'm from Taos, New Mexico. I'm a former

1 journalist and entrepreneur. And I'm here to express my
2 feelings regarding these rules. I am not being paid to
3 be here like many in this room are.

4 There's a dark cloud that has descended upon
5 our election process nationally and in New Mexico. Our
6 once democratic process is being subverted by
7 billionaires and political opportunists and foreign
8 governments interested in two things: Influence and
9 money.

10 Influence. Make no mistake, forces outside
11 New Mexico want to influence our elections and the
12 legislation that impacts them financially. They could
13 care less about good government or the welfare of the
14 good people of the state. They want this influence
15 because million of dollars are at stake for them in this
16 state and in states throughout this country.

17 I hope you will not be deceived by patriotic
18 sounding organizations; names -- patriotic organization
19 sounding names that spout this is a free speech issue.

20 Why are these groups opposing this
21 legislation? Why would you oppose allowing people to
22 know who is trying to influence elections and
23 legislation?

24 These so-called freedom groups are generally
25 funded by the Coch brothers organization or its donor

1 network and are thinly veiled fronts for their interests.

2 The majority of those who are here today
3 opposing this legislation are paid operatives sent out to
4 make sure the light does not shine into these dark money
5 recesses.

6 Ask yourself why and who pays. But New
7 Mexicans are strong people. Although we do not have
8 digital tools to flood your office with responses, we
9 won't allow our voices to be silenced by forces outside
10 our state who do not care about us, our government, or
11 legislation.

12 We urge you to strongly stand for the
13 majority of people in New Mexico. We are counting on
14 you. Thank you.

15 HEARING OFFICER LANGE: Thank you,
16 Mr. Madden. I'll also just make the general comment. As
17 we're proceeding through here when someone does make a
18 comment I'd ask just no one to clap, no one to jeer.
19 We're here just to receive public comment from everyone.
20 So please keep that in my mind.

21 And we'll call the next person who would
22 like to give general comment. Please, Mr. Greer.

23 MR. GREER: I wasn't sure when I wanted to
24 speak but I guess this is the right time. This is a
25 group of New Mexicans. None of them are paid to be here.

1 We are citizens. And as far as funky front groups,
2 Concerned Veterans for America is an education advocacy
3 group working on veterans issues across this country
4 including supporting the VA healthcare reforms that were
5 just signed by the president and are in place now to help
6 us get better responsibility and better healthcare for
7 our veterans. We are not --

8 THE REPORTER: Sir --

9 MR. GREER: -- some funky front group.

10 HEARING OFFICER LANGE: Mr. Greer, will you
11 face us --

12 MR. GREER. I'm sorry. Yes.

13 HEARING OFFICER LANGE: -- and talk into the
14 microphone. We are transcribing --

15 MR. GREER: I'm sorry. I made that
16 difficult by being at your back.

17 I just take it affront that we're paid
18 lobbyists here or something. Because every one of us
19 lives in New Mexico and every one of them is a volunteer.

20 We have been, as you're very familiar I
21 would assume, canvassing and talking to people indoors
22 and holding meeting with small nonprofits and small
23 businesses across New Mexico that participate in the
24 political process as part of their First Amendment right.

25 The big general concern is what we are

1 seeing with individuals is a chilling impact of having to
2 be on a list that -- that associates them with the
3 favorite things that they support. Whether they -- those
4 organizations actually take political action or advocacy
5 action or not.

6 But the fact that they might, and in the
7 event that they did, then even though that person who
8 made a donation to that organization would be on a list
9 of support for that.

10 And that the impact of what we're seeing in
11 today's society and the violence that you see on both
12 sides. That we're concerned for all New Mexicans and all
13 Americans that being associated with specific
14 organizations that if you have an administration who has
15 control of those lists, that it subjects you to the
16 possibility of harassment and other kinds of interference
17 in your life.

18 And this is for all New Mexicans. This no
19 left/right issue; this is an American issue. The other
20 part of it for nonprofits who live and die for the causes
21 that they believe in, which in large -- in large
22 percentage are not advocacy or political purposes, but
23 they find themselves from time to time wanting to be
24 engaged in those issues.

25 It has a chilling effect on them

1 participating in the legislative process. Because it
2 then requires them to open the door to the names and
3 addresses of all of their donors as well as a very
4 complicated reporting process that -- that was brought up
5 earlier when we talked about that section -- of
6 additional resources necessary by these organizations to
7 comply with these regulations.

8 Which we feel are nibbling away at our First
9 Amendment rights to both free speech and privacy within
10 that. That they're just going to not get engaged in the
11 process because it's too complicated and too expensive.

12 And that in itself quells the free speech of
13 our individuals through those organizations, as well as
14 those small organizations -- which again, I'm saying a
15 lot of them are not politically or advocately focused in
16 what they do. But from time to time there's issues of
17 great concern to them that -- that might get engaged in
18 that process.

19 And the second they do that one time it
20 opens the doors to all their donor records. And so we're
21 not in support of this. We believe that campaign reform
22 is important, we think it's important that we know where
23 the money comes from and those kind of things on both,
24 you know, on both the left and the right.

25 The Coch Brothers came up. I mean, we can

1 talk about Bloomberg interfering in our soda tax issues
2 in Santa Fe. Which I'm sure that a bunch of people in
3 this room think is absolutely perfect.

4 But it is outside money being brought into
5 New Mexico, spent by people who are concerned about
6 issues that concerns us as New Mexicans and supported by
7 parts of our population who support those causes. And we
8 would like to make sure that those things are still
9 possible to do. Thank you.

10 HEARING OFFICER LANGE: Thank you,
11 Mr. Greer. The next person? Please.

12 MS. EGG: My name Rebecca Egg. I live in El
13 Prado, New Mexico. I jotted down some comments this
14 morning but I want to open with a couple of questions
15 that I have from the last speaker.

16 My family and I are involved in several
17 nonprofits around town. And those nonprofits are all
18 apolitical. We do not -- we actively do not talk about
19 politics in -- within these nonprofits so that we can
20 attract donations from all for our causes. So I do not
21 understand at all the chilling effect or the problems for
22 nonprofits around the proposed campaign rule changes.

23 Also I am unsympathetic to the chilling
24 effect that disclosure would have on large campaign
25 donations. If people are interested in giving thousands

1 to somebody's campaign, I don't believe that the chilling
2 effects of disclosure is going to prevent that
3 contribution.

4 So now I'd like to go back to my own
5 comments. Very large campaign contributions often come
6 from out-of-state individuals and organizations. Few of
7 those organizations and individuals actually live in New
8 Mexico.

9 In my opinion their interests are rarely
10 aligned with the interests and welfare of the people of
11 New Mexico. We are a state with many needs and many
12 challenges. And I suspect that the people making those
13 large campaign contributions from out of state have any
14 idea about the real needs of New Mexico.

15 I think New Mexican citizens deserve and
16 need to know where a candidate's campaign contributions
17 come from. This is irregardless of whether that
18 candidate is Republican or Democrat or Green or
19 Libertarian or whatever they may be. I believe the
20 citizens deserve to know before that election takes
21 place. And I think this principle is fundamental to
22 basic good government.

23 If anyone tells me that transparency in
24 elections or in government is a bad thing, I absolutely
25 do not trust that individual or their motivations. I

1 support open, fair, and free elections. And I believe
2 that transparency benefits our democracy.

3 I also strongly applaud our Secretary of
4 State for doing what is right for the citizens of New
5 Mexico regardless of any threat of lawsuit.

6 Finally -- finally, as a citizen of New
7 Mexico I support the Secretary of State's proposed
8 campaign finance rule. Thank you.

9 HEARING OFFICER LANGE: Thank you, Ms. Egg.
10 Next person wishing to give public comment please come
11 forward.

12 MS. MELENDEZ: My name is Marcella Melendez.
13 I was born and raised in New Mexico and I've lived a very
14 long life, had the opportunity to see everything change
15 within my lifetime.

16 I'm afraid that New Mexico is not what it
17 was 75 years ago. And it's going in a very wrong
18 direction and one it would be to be -- to be identified
19 with any particular group that the -- that others would
20 be opposed to.

21 Because I have been trying to -- to get --
22 our local people in my community to become active, to try
23 to take back New Mexico, our communities so that we can
24 have a more -- a safer place.

25 We have a lot of drugs, we have a lot of

1 problems. But we need to reclaim what we have lost. We
2 had peaceful neighborhoods. When I was growing up nobody
3 locked their doors. We didn't have fences. People
4 crossed across each other's property to take a shortcut.

5 And that -- that's in the past. And now we
6 don't trust each other. There's a lot of people just
7 isolating themselves, especially older people like
8 myself.

9 And I don't think that's the best way to
10 live. I've seen the changes and they're not good. I
11 would like to be able to reclaim our communities so we
12 can have safe places so our children can go out and play
13 the way they used to; without fear.

14 And but right now there's a lot of bullying
15 going on. And I'm just shocked to see the results of the
16 last election where people were actually pressured
17 companies to fire their -- their people that are known to
18 not be taking a popular position. I think that's
19 terrible.

20 I think we need to have our freedom to
21 believe as we believe and to be safe in that. I believe
22 that anything that would cause our government to question
23 what we believe and who we support, what issues we
24 support or -- or oppose is another terrible step in the
25 wrong direction.

1 New Mexicans, we're very simple people.
2 We're -- well, things have changed of course. But when I
3 grew up it was people were just very peaceful; you just
4 want to live your life in peace. You want your children
5 to be safe. You want them to get a good education. You
6 want what's good for the community.

7 Well, actually that's the way it used to be.
8 I'm not describing today. But basically we are family
9 people that want a peaceful life. People are very afraid
10 to say what they believe anymore.

11 I sometimes go to my neighbors and talk to
12 them about getting together, trying to work together to
13 make a better community. And if it comes to anything
14 where they feel endangered they will not expose
15 themselves.

16 If you try to -- to support a candidate, for
17 example, that would -- would support our morals, our
18 values as a community and there's opposition, they won't
19 even put up a sign. They're scared.

20 And so we've got so much bullying going on
21 that it's gotten people to just withdraw. And I'm afraid
22 that being on a list, a government list of something that
23 would expose you would be a -- would be a very chilling
24 effect. Definitely. Without a doubt. Thank you.

25 HEARING OFFICER LANGE: Thank you,

1 Mrs. Melendez. Who would else like to give public
2 comment? Please come forward.

3 MR. OVERTON: Good morning, everyone. My
4 name is Robert Overton. I live in Rio Rancho, New
5 Mexico. I apologize for my tardiness. I ran into
6 traffic.

7 I actually took a couple hours off of work
8 this morning to be here so I am at a loss for funds.
9 Apparently I walked into a pretty ugly storm here and I
10 apologize.

11 Catching up on this. I represent a group
12 here called the New Mexico Sons of Liberty Riders. It's
13 a constitutional-based group, all 50 states wide that
14 comes across for all constitutional issues.

15 Now, I'm reading through this and I'm seeing
16 some things on here that I didn't know. Which is good
17 and bad as far as I'm concerned as an opinion.

18 But I wanted to come here today, I wanted to
19 share something with you guys. Earlier this year I was
20 here fighting some legislation that was going on in
21 regards to firearm ownership, background checks, et
22 cetera. It was brought forward by paid outside influence
23 from New York.

24 I'm not here to talk about that part of it
25 today. What I am here to talk about is the harassment I

1 got for being here. You guys have these cool sign-up
2 sheets in the back here, I suppose you guys use for
3 inventory to see who's here, who isn't, what have you.

4 From there, when we signed up at these
5 things specifically regarding Senate Bill 48 and House
6 Bill 50, those lists disappeared. And those lists were
7 turned over to a number of opponents for these bills
8 where they were given to these paid-for interest groups.

9 And we started receiving auto-dialer calls
10 almost every hour on the hour for three weeks straight.
11 This not only interrupted my personal life as I was
12 getting calls all way up to 3:00 o'clock in the morning,
13 but I was getting calls at work, I was getting calls
14 while I was in the process of performing my duties, which
15 with what I do for a living, I can't be distracted by
16 that stuff. That can mean a matter of life or death.
17 Okay?

18 While I am all about disclosing campaign
19 funds. And you -- anybody who talks to me will be the
20 first one. I will tell them freedom of speech is a
21 guaranteed right but it is not free from consequence of
22 those actions.

23 Being harassed because you have an opinion
24 or because you support or oppose something is not the way
25 to do it. I am all about transparency so I guess I'm

1 kind of in the middle of the field on this one.

2 But I just wanted to share with you the
3 harassment and the extreme stress that we were put under
4 because of legislation similar to this. That because of
5 ultimate transparency going all the way down to the
6 little guy who's a worker bee like me, it created hell
7 for my life, to be quite honest.

8 Now, as far as campaign contributions, I
9 mean, I know that at some point just the little bit that
10 I've dealt with the legislation, legislative process and
11 what I've seen with my own eyes.

12 I know sometimes it's a lot about compromise
13 and decisions. If I can submit to you guys just kind of
14 an observational thing.

15 Maybe put some kind of limit on where you do
16 that cutoff for full disclose. I mean, if there's
17 somebody running for public office obviously there should
18 be transparency.

19 But don't penalize the people that are
20 supporting them to try and, you know, have their opinions
21 online. We get enough of that from left versus right.
22 We get enough of that in the groups themselves, no matter
23 what they are, you know. Because you have multiple
24 candidates running for multiple things.

25 So while transparency is a good thing,

1 stepping on an individual's rights for having an opinion,
2 having a belief isn't the right way to go. That's
3 covered in the First Amendment. And those are things
4 that are protected as US citizens. Thank you.

5 HEARING OFFICER LANGE: Thank you,
6 Mr. Overton. Is there someone who would like to provide
7 comment? Please come forward.

8 MS. MUNROE: Good morning. My name is
9 Deborah Munroe. I'm from Rancho de Taos. I do not come
10 with any prepared statements but I feel it's important to
11 express my opinion.

12 I support the Secretary of State's right and
13 I believe it's her duty to protect the voters of the
14 state. I'm sympathetic to some of the statements on both
15 sides of the aisle here.

16 This is a very personal issue for most of
17 us. Politics has gotten really ugly in the last few
18 decades. And a lot of it has to do with corporate
19 interests and big money influencing the outcome of our
20 election.

21 So I think that this measure is extremely
22 important to move forward. I believe that anybody who's
23 running for office is potentially vulnerable to that kind
24 of big money.

25 It often does come from out of state. And

1 it has been documented that there's a lot of money on the
2 right coming from -- it's been mentioned the Coch
3 brothers supporting some nonprofit groups actually in
4 this state to move against this issue.

5 The issue of bullying I think is a really
6 important one in our community. And the last speaker
7 touched on some things that I totally agree with. But I
8 think you should hear the words that he said.
9 Transparency is important. It is extremely important.

10 What human beings do with that information
11 has to do with how they were raised, you know, the
12 interests of the corporate groups behind them and what
13 they try to influence them to do with that.

14 But making sure that I know that if there's
15 somebody running for whether it's a county seat, whether
16 it is the Secretary of State's Office, whether it is a
17 government, where they're getting their money; in other
18 words, where they're being influenced from is extremely
19 important.

20 And that goes from not just our local
21 government races but our statewide races and our
22 presidential races.

23 I am the daughter of a veteran who fought
24 for the state of New Mexico, this country. I am the
25 granddaughter of a World War veteran who was -- actually

1 participated in World War I as well; who fought for our
2 country, our world, and the state of New Mexico.

3 I think this is good for the state of New
4 Mexico for this to go forward and I urge the Secretary of
5 State to do everything she can. Thank you.

6 HEARING OFFICER LANGE: Thank you,
7 Ms. Munroe. Mr. Ellenberg? Please come forward.

8 MR. MONTEZ: Thank you. David Montez. Live
9 in Albuquerque. And what I think part of the problem
10 with this is that perceptions of things. This is
11 essentially a giant strongman argument. The dark money,
12 if you want to talk about that money that Citizens, Coch
13 brothers, what have you that's -- sorry.

14 That's disclosed. All right? Those
15 contributors, the fact that you know that those groups
16 exist, those networks exist, that's transparency. The
17 harder you make it to be transparent the more you're
18 going to drive it underground.

19 This is not going to relieve the democratic
20 process. It's not going to relieve our elections or dark
21 money. It's going to drive it further underground, it's
22 going to make it darker.

23 I mean, it's simple economics. If you can
24 afford to circumvent it by making it darker and not
25 disclosing, well, do that. But if you're just a small,

1 like he said, kind of a worker bee or if you're just an
2 average Joe or again not an organization that doesn't
3 have a lot of resources, that prices you out of competing
4 with the bigger money. So this is -- it's not going to
5 protect from dark money. It'll protect it.

6 As far as again, the idea of this being
7 about large donations. There's low thresholds so that's
8 another -- that's fine if you want to look at large
9 donations. But this covers more than that. That's not a
10 very good argument.

11 As far as -- the irony is this idea of free
12 elections. The premise is that if you have people or
13 groups donating to candidates then those candidates are
14 beholden to them and that corrupts what those officials
15 do once they're elected.

16 This is a more direct threat to democracy in
17 a sense it is a chilling effect. It does discourage.
18 It's an economic disincentive to get involved in local
19 issues.

20 And let's face it. With a 40 percent
21 turnout at best in most presidential election years I'd
22 say that one of the problems with our democracy these
23 days, our democratic process is that not enough people
24 are participating.

25 This will discourage it and advantage -- put

1 at advantage those that are most funded and most
2 sophisticated with lots of lawyers and accountants to
3 help navigate it.

4 Meanwhile, the little guys cannot do that.
5 Again, this is just very plain. You know, also, it's
6 ironic is the idea that we need to put a microscope on
7 private citizens to protect against corruption and
8 protect that we have integrity in the process.

9 But the democratic process was as of January
10 this year, SB 96 was able to pass the house and the
11 senate. And then the next step in the process was to
12 have it signed or -- by the governor. It was not signed;
13 it was vetoed. Did not become law.

14 That's legislative. That's that branch of
15 government. As far as implementing any kind of rules
16 beyond that, that's outside of the process.

17 So if the whole purpose of this is to
18 protect the integrity of our process, it seems like we're
19 sort of missing the (unintelligible) in the breeze if
20 we're going to micro-target on -- on groups and
21 individuals.

22 And again, that's the thing too. A lot of
23 the talk is about campaign donations to actual
24 candidates. Yes. That's already transparent. There's
25 already disclosure. You've got federal law and you've

1 got state law.

2 That's not even the issue. That's not even
3 a relevant argument. But -- but what we do see is the
4 risk of people not participating. And at the end of the
5 day an incumbent sitting in office right or left is the
6 one that's going to be advantaged.

7 Because to go and comply with all these
8 rules and all these restrictions and all these barriers
9 to speech, it discourages people from getting involved.

10 I maybe I would have donated to that group
11 that would have talked about the mayor or talked about
12 city counsel or implementing something or what have you.

13 It's just going to discourage them. It's
14 going to discourage groups; won't apply the law and you
15 may not have enough volunteers. You may not have enough
16 money to provide somebody to help them do that.

17 So ultimately it's going to help an
18 incumbent who doesn't want any advertisements holding
19 them accountable for what they've been doing as public
20 servants.

21 There's going to be fewer advertisement,
22 there's going to be fewer knowledge and the voters will
23 be less informed. So this benefits politicians who are
24 not transparent or being accountable. Thank you.

25 HEARING OFFICER LANGE: Thank you,

1 Mr. Montez.

2 MR. ELLENBERG: Thank you. Richard
3 Ellenberg. First we want to thank the Secretary of
4 State. We believe that she has a statutory duty to
5 regulate reporting. True, the legislation could preempt
6 that authority by a specific set of rules that were
7 vetoed. But when that was vetoed her authority was not
8 preempted and it's her obligation to exercise it.

9 The Democratic Party of New Mexico strongly
10 supports disclosure and full disclosure of dark money.

11 And as I get to sit back in my position and
12 watch what's happening it's strange. We had people like
13 peers voting against healthcare bills that would take
14 healthcare away from half its constituents. We had
15 people voting in ways that are clearly contrary to the
16 constituents' interest.

17 Now, are they doing that for ideology?
18 Maybe. Are they doing that because they know that vote
19 will lead to the expenditure of a large amount of dark
20 money on their behalf?

21 We know that is the code word. It is not a
22 direct agreement --

23 THE REPORTER: Say again?

24 MR. ELLENBERG: Code word. There's no --
25 but it is a code word, those votes are, for the

1 agreement, "I'll vote this way and you put dark money in
2 my campaign in support of my campaign."

3 We at least deserve to know who's putting
4 that dark money in. And we think that will greatly help
5 the transparency process by allowing voters to at least
6 know who's putting a lot of money behind who and whether
7 or not that seems to then to explain some of the votes
8 that otherwise don't make sense. Thank you.

9 HEARING OFFICER LANGE: Thank you. Next,
10 please.

11 MS. HARRISON: Good morning. Vicki
12 Harrison, Common Cause New Mexico. And we submitted our
13 comments to the Secretary of State yesterday, as well as
14 to the media who requested it because that's just who we
15 are. As one of our opposition told us one time, at least
16 we believe our own hype in disclosure and transparency.

17 And one of the pieces that -- and I just --
18 I feel like it's important for me to read one of the
19 comments that we submitted and if anybody wants a copy
20 I'm happy to email it to you.

21 But, you know, what I've heard today as well
22 as all the comments -- which we read all of the comments
23 that were received on the last draft. And what it makes
24 us realize is there is a widespread miscommunication
25 about these rules.

1 And it's -- at this point I almost feel like
2 it's willful and people are purposely misunderstanding.
3 Our current law requires so much more than what is being
4 proposed here. So when I hear things like thresholds are
5 too low I'm like the courts have repeatedly backed up
6 these thresholds. In fact, they're higher than what the
7 courts said we can do.

8 We're not talking about (C)(3)s who do an ad
9 every now and then having to report every single penny.
10 Nobody has ever said that, although 92 percent of New
11 Mexicans want them to. Consistently. Our polling has
12 shown for six years 90-plus percent of New Mexicans want
13 these independent groups to tell us every single penny.

14 These rules don't even do that. They say if
15 you spend \$1,000 in a non-statewide race, so a county
16 commission race or a state house race or \$2,500 in a
17 state race. And, you know, we talk about these
18 burdensome requirements.

19 Seriously? What this requires is you to
20 tell us who gave you the money and where you spent it.
21 That's it. How is that burdensome? The current system
22 is too burdensome, which is why the courts have struck it
23 down.

24 And this is absolutely the Secretary's not
25 just authority but duty to do this. This is what the

1 rules and regulations are made for. When the courts have
2 struck down parts of your statute and the legislature or
3 the Governor has not fixed it. That is when it is her
4 constitutional requirements to do this. So not only is
5 it not outside of her authority, it's actually her
6 authority. It's her job.

7 And so, you know, I just have to hit a
8 couple of other things. This is -- there's not a thing
9 in here that's unconstitutional. Not a single thing.
10 Every single one of these thresholds and the reporting
11 requirements, that's why we need these rules.

12 Our current law says everybody who spends
13 \$500 in a year on a political purpose, whatever the heck
14 that means, has to report everything. Has to have a
15 treasurer, has to do reporting into perpetuity.

16 This is so much more restrictive. So when I
17 hear these arguments I'm like, "People, are you not
18 reading it? Or are you listening to talking points that
19 somebody else has given you?"

20 The threats of litigation. Welcome to
21 campaign finance. Welcome to campaign finance. Threats
22 of litigation are something I hear literally every single
23 day.

24 And, you know, we want to talk about the
25 dark money. We talk about not putting it -- you know,

1 Justice Scalia said that that -- by not telling people
2 who you're donating to is a more -- a bigger threat to
3 our democracy.

4 And if you don't want -- let's say you want
5 to give money to a nonprofit and as we heard examples
6 earlier, these are just regular, little old nonprofits
7 doing their best here in New Mexico and every now and
8 then might do something. And that, you know, is going to
9 make them give their whole list.

10 Absolutely untrue. First of all, if you
11 donate to a (c)(3), who's not supposed to be doing this
12 anyway, write, "not for political purposes" on your
13 check.

14 I mean, tell your donors, "Put that on there
15 if you don't want to" -- and then if you -- let's say you
16 don't put that on your check. The only time you as a
17 (c)(3) would be doing this is if you're doing your sham
18 issue ads right before an election. That's the only time
19 a (c)(3) would ever get caught up in this.

20 And then they would only have to report
21 either everybody who's given \$5,000 or more, which I'm
22 sorry, that's not your average little old New Mexican is
23 not giving \$5,000. Or you can do a segregated bank
24 account that puts in all the money that people have said,
25 "Use my money for politics."

1 The courts have said, "We can require every
2 penny of that to be reported." The rules say, "We don't
3 care about the little donors. Just give us \$200 and
4 above. That's all we need." Again, all the IEs have to
5 do is tell us where the money came from and where it's
6 going.

7 I absolutely agree that Bloomberg coming
8 into Santa Fe is outside money. But for us to act like
9 these groups don't have money and they're just all
10 volunteer, well, they had enough money to do mailers
11 around the state, do canvassing around the state and do
12 advertising around the state.

13 So that's not all volunteer. That money
14 came from somewhere. I mean, I send out mailers to my
15 members around our issues. And I know how much that
16 stuff costs. And I got copies of this forwarded from all
17 over the state.

18 So this idea that, you know, there's no
19 money and it's just trying to do this is just simply not
20 true.

21 And I really appreciate the gentleman from
22 Rio Rancho where I'm from. Because I'm just a skosh away
23 from a Libertarian myself. And we also at Common Cause
24 have routinely this year not just had auto-dialers; we've
25 had death threats.

1 Literally, people. I get death threats from
2 working on campaign finance. My staff gets death threats
3 for working on campaign finance. They show up to our
4 offices and try to harass us.

5 And that's simply talk about campaign
6 finance form. And that's on both sides of the aisle. I
7 mean, I've had the left and right. We're an equal
8 opportunity death threat receiver.

9 Again, this is -- the rules are changing
10 around independent spenders. Your candidates, your
11 parties, your PACs, they have to report every single
12 penny already. Nobody acts like that's a big deal.

13 This is only asking for very limited with
14 high thresholds. The idea that these are low
15 thresholds -- I encourage people to read the court cases
16 that have said this is absolutely constitutional.

17 And, you know, I really appreciate, whether
18 people in this audience agree with me or not. At Common
19 Cause we are appreciative of people getting involved. So
20 whether you are here today to oppose what I'm saying or
21 not, I am super appreciative that you're here.

22 And I'm appreciative that, you know, our
23 veterans are here. As other speakers have said, I come
24 from a long line of military family. And I myself in
25 1986 became part of the first platoon of women to train

1 with M-16s at Paris Island. So I take this very
2 seriously. Thank you very much.

3 HEARING OFFICER LANGE: Thank you. Any
4 further public comment? We'll get someone from --

5 MR. DESPIN: Hi. My name is Stephen Despin,
6 I'm from Albuquerque. Having grown up in the Boston,
7 Massachusetts area I was taught liberty. I visited the
8 South Capital Building, one of the meeting place of the
9 Sons of Liberty. I've visited --

10 THE REPORTER: I'm sorry, sir. Slow down,
11 Hon.

12 MR. DESPIN: -- of the Boston Massacre,
13 Bunker Hill, and the harbor where all that tea was dumped
14 so many years ago.

15 One of the rights that was being fought by
16 our -- for by our founding fathers all these years ago
17 was freedom of speech.

18 Here we now find ourselves with a state
19 government aiming to infringe upon that right. The same
20 right of free speech that was intended to hold government
21 accountable is now being used by government to harass,
22 intimidate, and silence the very citizens the right was
23 meant to protect.

24 Secretary Oliver is grossly overstepping her
25 authority by pushing this measure through. The

1 legislative process had played out and it was vetoed.
2 With a blatant power grab the Secretary is using any
3 means necessary to force this measure on our state.

4 New Mexico already has rules in place to
5 protect the integrity of political life and Campaign
6 Report Act passed in 1978 provides the tools the state
7 needs to investigate fraud or corruption.

8 We sit here today and we talk about dark
9 money and politics. I've heard the Coch brothers' names
10 mentioned many times. Yet, what I find ironic is the
11 failing to bring up the fact of Soros' dark money within
12 our political arena.

13 The legislation violates freedom of speech,
14 our right to privacy, and is the opposite of liberty.
15 Having a five-year-old son I want the very best for him,
16 the brightest future.

17 Yet that future will not exist if other
18 citizens and myself sit idle and allow government to
19 circumvent the process through power grabs, abuse of
20 power, and the trampling upon the rights of the citizens.

21 Rights such as freedom of speech are the
22 foundation on which this country was built upon. It was
23 such rights our founding fathers understood the
24 importance of protecting.

25 It was these rights they fought for. I

1 stand here today to defend these rights yet again. I'm
2 here in front of you today to defend the bedrock of
3 rights which this country was founded upon. The rights
4 my ancestors put their lives on the line to protect. And
5 I'm here to urge you not to move forward with a clear
6 violation of citizens' rights.

7 Government is intended to be voice of the
8 people.

9 THE REPORTER: Sir --

10 MR. DESPIN: It's not intended to silence
11 that voice.

12 THE REPORTER: So sorry. Just slow down.

13 MR. DESPIN: We speak of transparency.
14 Transparency is meant for government, not the citizens.
15 The citizens maintain a right to privacy, which was
16 fought for from the founding of this country. Government
17 is meant to be transparent, not our citizens.

18 You claim to have, as mentioned earlier,
19 threats on a regular basis or an equal opportunity --
20 opportunity employer for death threats.

21 That's the exact purpose of why this measure
22 should not be put through. When you're requesting that
23 citizens donating to -- to organizations that they
24 believe in by putting their name and addresses available
25 to the internet, that leaves them open to that same type

1 of intimidation, not at their offices, but in their homes
2 where their children sleep, where their wives are there
3 daily taking care of these children. That is much more
4 of a risk than threats in your office. Thank you.

5 HEARING OFFICER LANGE: Thank you. Ma'am,
6 would you like to give public comment?

7 MS. JONES: My name is Madelyn Jones. I am
8 a business owner in the city of Albuquerque for over 40
9 years. I have run for office. So what we're talking
10 about here today and some of the positions that have been
11 put forth have confused me.

12 I ran for a nonpartisan school board
13 election. I had to list every donor; \$5, \$10 dollars.
14 It did not make any difference. Every single one had to
15 be reported to the Secretary of State.

16 Now, on some aspects I'm understanding we're
17 talking about organizations that people donate to. And
18 maybe this is supposed to be something that applies to
19 them and not to candidates. However, as a business owner
20 I go, "What is it we are trying to solve with this
21 particular approach?"

22 Because we are not going to stop dark money
23 with this. We are not going to be able to influence what
24 we seem to think is influencing us in our election. Any
25 candidate stands for certain things. They come out.

1 They tell us. "We're against crime. We want to fix
2 this. We want to do that."

3 And individually we get to decide as
4 citizens, "I like what that person said. I'm going to
5 give them money." If we think that anything that we do
6 here is going to stop somebody from going behind the
7 curtain so we don't see what they are doing it will not.
8 And there is more money that is influencing after someone
9 is elected than it is before they are elected.

10 Different organizations do have a reason
11 that they exist; whether they're Right to Life,
12 Albuquerque Tea Party, Common Cause I guess. They have
13 something they stand for.

14 So if somebody gives them money they are
15 representing what they think the person who gave them
16 money thinks that's who they want to support.

17 And by making them afraid -- and I will tell
18 you that that person who spoke regarding people being
19 afraid to report or to -- to say who they are and write
20 it down is absolutely true. Absolutely true.

21 Our citizens are afraid of government and
22 they do not want government to know who they are. They
23 do not want to be challenged. And it was said here very
24 openly, death threats, harassments, that type of thing.

25 Your records are open records. So you are

1 asking people to put their name down on an open record
2 for someone else to look at and say, "I want to attack
3 that person so that my opinion can be better than their
4 opinion."

5 So a lot of times and I've found this in
6 business and I have to deal with regulations every single
7 day, is that you're not solving any problem. You are
8 not.

9 Everybody wants to know where the money
10 comes from. I think it's more important to you need to
11 know what does the person stand for that gets the money?
12 What does the organization -- organization stand for that
13 gets the money?

14 And then make your choice by your vote as to
15 which one you are going to represent. I believe we don't
16 need more reasons or methods to try and solve these
17 problems. Because every time you make a solution there's
18 an opposite reaction. Cause and effect. You never get
19 there.

20 You always keep adding on and adding on and
21 adding on. It's a lot easier to really identify what is
22 the real problem? Transparency? Yes. It should be with
23 the government. You would put these names on a record.

24 Other people would see the record and other
25 people who want to do harm will go out and do the harm.

1 This is something to think about. Because every day we
2 see it in our newspaper and on our TV. Thank you.

3 HEARING OFFICER LANGE: Thank you.

4 MR. SURGUINE: Good morning. My name is
5 Terry Surguine. I live in Taos. When I make a
6 contribution to the candidate of my choice, I'm limited
7 in the amount of money I can give. And my donation, my
8 name, my occupation become public record. And I'm fine
9 with that. I stand behind my support for candidates and
10 issues.

11 I can see no reason why the wealthy should
12 be able to give unlimited thousands to influence our vote
13 through ads and then to claim a right to anonymity. It
14 seems to me both arrogant and unfair.

15 I'm a Vietnam vet. And I didn't make that
16 sacrifice to protect -- to protect an imaginary right of
17 the rich to give unlimited amounts of money and hide
18 behind a right to privacy that has never been conflated
19 with the right to free speech. I wholeheartedly support
20 this rule. Thank you.

21 HEARING OFFICER LANGE: Thank you. Any
22 further comment? Please.

23 MS. LUCKEY: My name is Marjoree Luckey, I'm
24 a physician and I live in Taos. I very much appreciate
25 the clarification that was presented here by the Common

1 Cause speaker. These rules are not increasing
2 requirement of disclosure for small, local contributions
3 to issues or causes that one supports.

4 They are increasing disclosure of very large
5 amounts of money into our political process through
6 independent organizations, PACs, that are hiding the
7 sources of that money.

8 And if there is, as was mentioned earlier,
9 concern about having one's name associated with these
10 organizations' political activities, that's a problem of
11 the organization. That can only be addressed by the
12 organization allowing members to indicate what issues
13 they would like the organization to use their money.

14 This is a serious problem in our elections.
15 It is well known that these huge amounts, hundreds of
16 thousands of dollars that are coming in in attack ads
17 from the left and the right.

18 New Mexicans I believe have the right to
19 know who is trying to influence our vote, who is paying
20 for this, what individuals. And if they do not wish to
21 have their names associated with those ads, members can
22 indicate that they do not wish to be included.

23 So I believe that the rules for transparency
24 that are in these rules meet the Supreme Court's
25 specified opinion that allowing large amounts of campaign

1 and independent contributions in elections should be
2 accompanied by disclosure and ask that rules for
3 disclosure be written.

4 So I applaud the Secretary of State for
5 following these guide -- this guidance that was given by
6 the Supreme Court and hope that these rules will be
7 passed. Thank you.

8 HEARING OFFICER LANGE: Thank you. Any
9 further public comment? Sir.

10 MR. SAENZ: My name is Kurt Saenz. I'm a
11 citizen here of New Mexico. I live in Rancho Villejo.
12 And what I've seen is I got to say thank you for trying
13 to solve the problem. But unfortunately I don't believe
14 that's -- that's the right problem.

15 Everybody here has been talking about
16 entities, entities, entities. The problem is that those
17 entities have the same rights as individuals now. That's
18 the problem.

19 We're putting the burden now because of that
20 onto the individuals. We're not going to get rid of
21 that. What's going on is we're ending up exactly what
22 "1984" was all about. Okay?

23 We have rights as individuals. My question,
24 I know people say, "Well, your name's on the list." Why
25 do you care? Some of the people here have already said

1 why.

2 If we can't accept that then we're not
3 accepting the individuals either. It's not political.
4 This is a political process but we're all citizens. We
5 all live here. We all have the right to our opinion.

6 And I'm not going to put anybody down for
7 having their opinion because they are all right. Might
8 not agree with mine. So what.

9 But it is a privacy issue and we need to
10 solve that. Government has already shown it can't solve
11 problems. It addresses symptoms. And we can't expect
12 government to solve our problems. As individuals we need
13 to be the ones solving these problems.

14 And you have to get to the root cause.
15 Everyone wants disclosure, you know. We all want to know
16 where that money goes and where it comes from. But when
17 you have entities that can hide that's the real issue.

18 I don't care if anybody knows that I give
19 money. But we can't isolate the real problem which is
20 the organizations that show themselves as entities. Very
21 easy for them to hide the money.

22 But I thank you for bringing the issue up
23 and trying to solve something because it brought it to
24 light. I just hope that everybody stops it from trying
25 to be political left, right, whatever it is. Because

1 that's not the issue.

2 You have issues. The real issues are who
3 should be able to vote and who should be able to
4 influence that. And where we live, this is our
5 communities. We don't want anybody, both sides, we don't
6 want somebody else coming in and just telling us what to
7 do. We want to have control over it. So trying to get
8 control of it, that was good. Thank you.

9 MR. KAUFFMANN: Good morning. I'm Steven
10 Kauffmann. And I had not intended to speak. I kind of
11 am a late comer to this issue. But I have been following
12 it now and I really just want to say thank you to Madam
13 Secretary and the staff because you've held public
14 hearings.

15 And I'm even more impressed by the fact that
16 you have made some changes based upon those public inputs
17 and I like it. We seem to have some reasonable limits
18 and we're heading in a reasonable direction as allowed by
19 the courts.

20 I'd also like to say that first off, I have
21 tremendous empathy for the concerns and the fears of
22 people in this room because it is a very real issue. And
23 we all like to protect our anonymity to a degree.

24 The way I see this rule is a rule that does
25 protect that anonymity up to a reasonable amount. Of

1 course, we could debate that amount over and over an
2 endless period of time and never come to a conclusion.

3 So sometimes when we build something,
4 including legislation and rules, we have to make a choice
5 and then perhaps adjust that as we head down the road.

6 But my main point here is first off, I do
7 not see this in any way as a freedom of speech issue.
8 And no way does this become a motivation or an incentive
9 or a disincentive to make a speech one way or another.

10 It simply means that if I'm an outsider
11 coming into my state, trying to influence politics or who
12 gets voted for or what gets involved on, you simply can't
13 do it anonymously.

14 While I agree with the gentleman who just
15 spoke that the real solution might be to limit the
16 dollars, that's not an option that we have given the
17 current court cases.

18 So the best we can do at this stage as I see
19 it is to at least create some disclosure requirements so
20 as a New Mexico resident I know whose interests are being
21 spoken for when someone does a political ad or
22 contributes a large amount of money to a PAC here in the
23 state.

24 I am concerned and have tremendous empathy
25 for the burdensome piece of the legislation -- or of the

1 rule. I can't see that as being too much of an impact.
2 I have served on two boards of directors for nonprofits.
3 Treasurer for several years and later becoming a
4 president for a rather large one.

5 And all these things are already tracked and
6 reported to the government. So again, while I have
7 empathy for the government tracking me down, they've
8 already got my name and address if I'm on that corporate
9 document and if I've made contributions to a nonprofit.

10 The legal implications are certainly a
11 concern. Unfortunately, we all face that as citizens of
12 this country. I would also argue that if legal
13 litigation were to stop our actions we wouldn't have any
14 medical treatment, we wouldn't be driving cars or any of
15 that stuff because we're all at risk of being sued at any
16 time and place, and certainly those who help the public.

17 So, you know, I have a concern, I have
18 empathy for that. But it really should not be the
19 driving case in whether we make a rule or pass some
20 legislation for disclosure.

21 I really loved the input from Justice
22 Scalia's comments. Very true, he was very clear in his
23 statement that said you're certainly more likely to lie
24 if you have not signed your own statement.

25 But, you know, bottom line here, I don't see

1 this any way that our freedom of speech is under attack.
2 What I see it means is that if an outside group comes to
3 my state and wants to influence my vote, they want to
4 spend a truckload of money to influence our lives they
5 can't do it anonymously.

6 It won't stop the money, but as a citizen
7 I'm going to know who is speaking. So as a resident of
8 New Mexico, a retired combat veteran and concerned
9 citizen I like this rule. I fully support it. It's a
10 great rule. It does not impact anybody's freedom of
11 speech.

12 And if anything it will result in us, New
13 Mexico voters and citizens, being heard without being
14 drowned out by the large amounts of money without having
15 any idea of whose interests that money is being spent
16 towards. So thank you very much. And again, thank you
17 for the public hearing and taking this on. It's a tough
18 case.

19 HEARING OFFICER LANGE: Any further public
20 comment? Seeing no further public comment, please ensure
21 that if you are present that you have signed the
22 attendance sheet.

23 (Marked Exhibit No. 7.)

24 HEARING OFFICER LANGE: At this time the
25 attendance sheet will be marked as an exhibit, being the

1 rule hearing. The hearing record is now closed and no
2 further oral testimony will be heard. The testimony
3 during this rule hearing will be duly considered by the
4 New Mexico Office of Secretary of State.

5 The Secretary of State has now concluded its
6 fourth and final public comment hearing on this rule. It
7 is to be noted that there have been three previous public
8 comment hearings on these proposed rules.

9 Upon the completion of today's rule hearing
10 all exhibits from these previous public comment hearings
11 will be incorporated into the final rule making record in
12 accordance with the State Rules Act.

13 Any rules adopted by the Secretary of State
14 will be filed in the State Records and Archive Center in
15 accordance with the State Rules Act and the New Mexico
16 registered publication deadlines.

17 I'd like to thank all members of the public
18 present and thank them for their participation and
19 attendance today.

20 Let the record reflect that the hearing was
21 adjourned at 10:39 a.m. on August 30th, 2017. Thank you.

22 (Off the record at 10:39 a.m.)

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

THE STATE OF NEW MEXICO :
COUNTY OF BERNALILLO :

BE IT KNOWN that the foregoing transcript of proceedings was taken by me; that I was then and there a Certified Court Reporter and Notary Public in and for the County of Bernalillo, State of New Mexico, and by virtue thereof, authorized to administer an oath; that the witness before testifying was duly sworn by me; that the foregoing 66 pages contain a true and accurate transcript of the proceedings, all to the best of my skill and ability.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with (unless excepted by the Rules) any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this case in any court.

JEANNINE K. SIMS, NM CR #12
License expires: 12/31/17
Paul Baca Court Reporters
500 Fourth Street, NW, Suite 105
Albuquerque, New Mexico 87102