Proposed Rule Amendment 2019-02 (Option 2) for Indirect Lobbying
Click here for the proposed language of Rule 2019-02, Option 2. The language is not final and may be modified.

1. **Consistent Disclosures for Similar Messages.** Currently, the sponsor of messages is identified when advocating for or against a candidate or state question, but not legislation. Amendment 2019-02 will identify the sponsor of ads and materials advocating for or against legislation.

   **Without 2019-02:** Only messages for / against candidates & SQ require disclosure of sponsor

   **With 2019-02:** Adds disclosure of sponsor to messages for or against legislation

   ![Diagram comparing disclosure requirements before and after 2019-02 amendment]

2. **There is little practical difference between entities that lobby directly and entities that lobby indirectly.** 2019-02 will apply minimal disclosure requirements to indirect lobbying.

   **Example 1:** ABC hires Jane Smith to influence state policy by communicating with state officers and employees.

   - **Disclosure Requirements:** Jane Smith registers with the Commission, identifies ABC as her client, and files routine reports with the Commission detailing expenditures.

   **Example 2:** ABC hires Jane Smith to impact state policy by communicating with public citizens and urging them to communicate with state officers and employees.

   - **Disclosure Requirements:** None. 2019-02 will implement minimal disclosure on ABC.

3. **2019-02 requires two types of disclosure:**

   A. **Sponsor of the Message:** Identification of the sponsor of the message on certain materials and paid advertisements.

   B. **Significant Expenditure Reporting with the Commission.** Entities that exceed $5,000 in expenditures for indirect lobbying will file a report with the Commission disclosing how much was spent and who received the funds.

4. **40 states require disclosure for communications advocating for or against legislation.**

   Similar disclosure requirements for lobbying exist in 40 other states. Some require registration and routine reporting, some require the sponsor be identified, and some require reports only when a certain threshold is exceeded. In the chart below, only the dark gray states do not require some type of disclosure for messages supporting or opposing legislation. (Click on Map for a larger view.)

   ![State disclosure requirements map]

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1. Created by an AI, validated by an expert.
5. “Communication” in the Rule does not mean discussing legislation with friends or family. It does mean a message that is broadcast, such as on radio or t.v., or printed, such as in a newspaper or mailer.

6. Membership lists of organizations will not be provided to the Commission.

7. Citizens who contact their legislators personally will not be “indirect lobbyists” under the Ethics Rules. A citizen that voluntarily and without compensation contacts his or her legislator about legislation is not a lobbyist under existing Rules and is not a lobbyist under 2019-02.

8. Low cost, volunteer efforts by citizens to hand out flyers, send mail, or email to others in support or oppose legislation is not “indirect lobbying” and does not require identification of the sponsor. Only those entities that receive over $500 in funds or services, or, spend over $500 to advocate for or against legislation must identify who is sponsoring the communication.

   **Example:** John Smith spends $500 in materials, printing, and postage to send out bulk letters to everyone in his area code telling them to contact their legislator and “VOTE YES on HB 1500”. John Smith will not be required to include a disclosure on his materials.

9. Paid advertisements advocating for or against legislation will require a disclosure.

10. Organizations that have an employee or hire a person to prepare and share materials to advocate for or against legislation will be required to include a disclosure on materials. This helps the citizen identify the source of the message before deciding whether to contact their legislator. It also helps the legislator identify who the sponsor of the message is and what their interest is in the legislation. The organization is the indirect lobbyist, not the citizens passing on the organization’s message.

11. Individuals and entities that contribute money to an organization for the purpose of assisting the organization in advocating for or against legislation will be identified only when the organization spends more than $5,000 in such advocacy. The phrase “for the purpose of” is specifically defined in 2019-02, Option 2 to be (1) a contribution received in response to a request for funds to support or oppose legislation; or (2) funds given to an organization to support or oppose legislation.

   **Example 1:** John Doe pays an annual membership fee to XYZ Association and makes monthly contributions. ABC, Inc., without a request from XYZ Association, gives $15,000 to XYZ so XYZ can create ads and materials in efforts to “pass HB 1500”. If XYZ accepts the contribution it will be required to file a report with the Commission and will list ABC, Inc. as a contributor, but not John Doe because he did not donate for the purpose of supporting or opposing legislation.

   **Example 2:** HB 2500 is a tax credit for widget manufacturers. Fight for Us, Inc. is a new, non profit corporation, incorporated by 5 widget manufacturers. Each of the 5 widget manufacturers invests $20,000 in Fight for Us, Inc. for the purpose of receiving the tax credit in HB 2500. It spends $100,000 advocating support for HB 2500.

   **Disclosure Required:** Amendment 2019-02 would require (1) a disclosure on all materials and ads identifying Fight for Us, Inc. as the sponsor; (2) filing a report with the Commission that Fight for Us, Inc. spent $100,000 advocating for HB 2500; and (3) would disclose the names and amounts each widget manufacturer invested to advocate for HB 2500.