

HOUSE BILL 272

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

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AN ACT

RELATING TO ELECTIONS; REQUIRING CERTAIN CAMPAIGN REPORTS TO BE
FILED QUARTERLY; CHANGING REPORTING REQUIREMENTS; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1997;
AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-19-26 NMSA 1978 (being Laws 1979,
Chapter 360, Section 2, as amended) is amended to read:

"1-19-26. DEFINITIONS.--As used in the Campaign Reporting
Act:

A. "advertising campaign" means an advertisement or
series of advertisements used for a political purpose and
disseminated to the public either in print, by radio or
television broadcast or by any other electronic means,
including telephonic communications, and may include direct or

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1 bulk mailings of printed materials;

2 B. "anonymous contribution" means a contribution
3 the contributor of which is unknown to the candidate or [~~his~~]
4 the candidate's agent or the political committee or its agent
5 who accepts the contribution;

6 C. "bank account" means an account in a financial
7 institution located in New Mexico;

8 D. "campaign committee" means two or more persons
9 authorized by a candidate to raise, collect or expend
10 contributions on the candidate's behalf for the purpose of
11 electing [~~him~~] the candidate to office;

12 E. "candidate" means an individual who seeks or
13 considers an office in an election covered by the Campaign
14 Reporting Act, including a public official, who either has
15 filed a declaration of candidacy or nominating petition or:

16 (1) for a non-statewide office, has received
17 contributions or made expenditures of one thousand dollars
18 (\$1,000) or more or authorized another person or campaign
19 committee to receive contributions or make expenditures of one
20 thousand dollars (\$1,000) or more for the purpose of seeking
21 election to the office; or

22 (2) for a statewide office, has received
23 contributions or made expenditures of two thousand five hundred
24 dollars (\$2,500) or more or authorized another person or
25 campaign committee to receive contributions or make

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1 expenditures of two thousand five hundred dollars (\$2,500) or
2 more for the purpose of seeking election to the office or for
3 candidacy exploration purposes in the years prior to the year
4 of the election;

5 F. "contribution" means a gift, subscription, loan,
6 advance or deposit of money or other thing of value, including
7 the estimated value of an in-kind contribution, that is made or
8 received for a political purpose, including payment of a debt
9 incurred in an election campaign, but "contribution" does not
10 include the value of services provided without compensation or
11 unreimbursed travel or other personal expenses of individuals
12 who volunteer a portion or all of their time on behalf of a
13 candidate or political committee, nor does it include the
14 administrative or solicitation expenses of a political
15 committee that are paid by an organization that sponsors the
16 committee;

17 G. "deliver" or "delivery" means to deliver by
18 certified or registered mail, telecopier, electronic
19 transmission or facsimile or by personal service;

20 H. "election" means any primary, general or
21 statewide special election in New Mexico and includes county
22 and judicial retention elections but excludes municipal, school
23 board and special district elections;

24 I. "election year" means an even-numbered year in
25 which an election covered by the Campaign Reporting Act is

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1 held;

2 J. "expenditure" means a payment, transfer or
3 distribution or obligation or promise to pay, transfer or
4 distribute any money or other thing of value for a political
5 purpose, including payment of a debt incurred in an election
6 campaign or pre-primary convention, but does not include the
7 administrative or solicitation expenses of a political
8 committee that are paid by an organization that sponsors the
9 committee;

10 K. "person" means an individual or entity;

11 L. "political committee" means two or more persons,
12 other than members of a candidate's immediate family or
13 campaign committee or a husband and wife who make a
14 contribution out of a joint account, who are selected,
15 appointed, chosen, associated, organized or operated primarily
16 for a political purpose; and "political committee" includes:

17 (1) political action committees or similar
18 organizations composed of employees or members of any
19 corporation, labor organization, trade or professional
20 association or any other similar group that raises, collects,
21 expends or contributes money or any other thing of value for a
22 political purpose;

23 (2) a single individual [~~who by his~~] whose
24 actions [~~represents~~] represent that [~~he~~] the individual is a
25 political committee; and

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1 (3) a person or an organization of two or more
2 persons that within one calendar year expends funds in excess
3 of five hundred dollars (\$500) to conduct an advertising
4 campaign for a political purpose;

5 M. "political purpose" means influencing or
6 attempting to influence an election or pre-primary convention,
7 including a constitutional amendment or other question
8 submitted to the voters;

9 N. "prescribed form" means a form or electronic
10 format prepared and prescribed by the secretary of state;

11 O. "proper filing officer" means either the
12 secretary of state or the county clerk as provided in Section
13 1-19-27 NMSA 1978;

14 P. "public official" means a person elected to an
15 office in an election covered by the Campaign Reporting Act or
16 a person appointed to an office that is subject to an election
17 covered by that act; and

18 Q. "reporting individual" means every public
19 official, candidate or treasurer of a campaign committee and
20 every treasurer of a political committee [and

21 ~~R. "statement of exception" or "statement" means~~
22 ~~the prescribed form subscribed and sworn to by a candidate to~~
23 ~~indicate that the candidate does not intend to raise or expend~~
24 ~~the minimum amount required for the filing of a report of~~
25 ~~expenditures and contributions as provided in Section 1-19-33~~

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1 ~~NMSA 1978~~]."

2 Section 2. Section 1-19-27 NMSA 1978 (being Laws 1979,
3 Chapter 360, Section 3, as amended) is amended to read:

4 "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER.--

5 A. Except for those candidates and public officials
6 who file a statement of [~~exception in an election year pursuant~~
7 ~~to Section 1-19-33 NMSA 1978~~] no activity, all reporting
8 individuals shall [~~annually~~] file with the proper filing
9 officer a report of expenditures and contributions on a
10 prescribed form. [~~The report shall be filed on the second~~
11 ~~Monday in May pursuant to the provisions of Subsection A of~~
12 ~~Section 1-19-29 NMSA 1978.~~]

13 B. The proper filing officer for filing reports of
14 expenditures and contributions by a political committee is the
15 secretary of state.

16 C. The proper filing officer for filing reports of
17 expenditures and contributions or statements of [~~exception~~] no
18 activity is the secretary of state for all candidates and
19 public officials.

20 D. The secretary of state shall develop or contract
21 for services to develop an electronic reporting system for
22 receiving and for public inspection of reports of expenditures
23 and contributions and statements of [~~exception~~] no activity to
24 the Campaign Reporting Act. The electronic reporting system
25 shall:

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1 (1) enable a person to file reports online by
2 filling out forms on the secretary of state's web site; and

3 (2) provide for encrypted transmissions."

4 Section 3. Section 1-19-28 NMSA 1978 (being Laws 1979,
5 Chapter 360, Section 4, as amended) is amended to read:

6 "1-19-28. FURNISHING REPORT FORMS--POLITICAL
7 COMMITTEES--CANDIDATES.--

8 A. The secretary of state annually shall furnish to
9 all reporting individuals the prescribed forms for the
10 reporting of expenditures and contributions, supplemental
11 reports and a statement of [~~exception~~] no activity and the
12 specific dates the reports and statement are due.

13 B. In addition to the provisions of Subsection A of
14 this section, at the time of filing a declaration of candidacy
15 or a nominating petition, the proper filing officer shall give
16 the candidate the prescribed reporting forms and the schedule
17 of specific dates for filing the required reports or a
18 statement of [~~exception~~] no activity. The prescribed forms
19 shall also be made available to all reporting individuals at
20 the office of the secretary of state and in each county at the
21 office of the county clerk."

22 Section 4. Section 1-19-29 NMSA 1978 (being Laws 1993,
23 Chapter 46, Section 5, as amended) is amended to read:

24 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

25 A. [~~Annually~~] Except as otherwise provided in this

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1 section, all reporting individuals shall file with the proper
2 filing officer by 5:00 p.m. on the second Monday in ~~[May]~~
3 April, July, October and January a quarterly report of all
4 expenditures made and contributions received on or before the
5 ~~[first Monday in May]~~ last day of the previous month and not
6 previously reported. The report shall be filed ~~[annually]~~
7 quarterly until the reporting individual's bank account has
8 been closed and the other provisions specified in Subsection F
9 of this section have been satisfied.

10 B. In an election year, ~~[in addition to the May~~
11 ~~report]~~ once the report due in January is filed and instead of
12 the next four quarterly reports provided for in Subsection A of
13 this section, all reporting individuals, except for ~~[persons~~
14 ~~who file a statement of exception pursuant to Section 1-19-33~~
15 ~~NMSA 1978, candidates who file a statement of no activity and]~~
16 public officials who are not candidates in an election that
17 year, shall file reports of all expenditures made and
18 contributions received or, if applicable, statements of no
19 activity, according to the following schedule:

20 (1) by 5:00 p.m. on the second Monday in
21 March, a report of all expenditures made and contribuitions
22 received on or before the first Monday in March and not
23 previously reported;

24 (2) by 5:00 p.m. on the second Monday in May,
25 a report of all expenditures made and contributions received on

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1 or before the first Monday in May and not previously reported;

2 [~~(1)~~] (3) by 5:00 p.m. on the second Monday in
3 October, a report of all expenditures made and contributions
4 received on or before the first Monday in October and not
5 previously reported;

6 [~~(2)~~] (4) by 5:00 p.m. on the Thursday before
7 a primary, general or statewide special election, a report of
8 all expenditures made and contributions received by 5:00 p.m.
9 on the Tuesday before the election. Any contribution or pledge
10 to contribute that is received after 5:00 p.m. on the Tuesday
11 before the election and that is for five hundred dollars (\$500)
12 or more in a legislative or non-statewide judicial election, or
13 two thousand five hundred dollars (\$2,500) or more in a
14 statewide election, shall be reported to the proper filing
15 officer either in a supplemental report on a prescribed form
16 within twenty-four hours of receipt or in the report to be
17 filed by 5:00 p.m. on the Thursday before a primary, general or
18 statewide special election, except that any such contribution
19 or pledge to contribute that is received after 5:00 p.m. on the
20 Friday before the election may be reported by 12:00 noon on the
21 Monday before the election; and

22 [~~(3)~~] (5) by 5:00 p.m. on the thirtieth day
23 after a primary, general or statewide special election, a
24 report of all expenditures made and contributions received on
25 or before the twenty-fifth day after the election and not

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1 previously reported.

2 C. If a candidate or public official has not
3 received any contributions and has not made any expenditures
4 since the candidate's or official's last report was filed with
5 the proper filing officer, the candidate or official shall only
6 be required to file a statement of no activity, which shall not
7 be required to be notarized, in lieu of a full report when that
8 report would otherwise be due and shall not be required to file
9 a full report until the next required filing date occurring
10 after an expenditure is made or a contribution is received.

11 D. ~~[Notwithstanding the other provisions of this~~
12 ~~section, the report due on the thirtieth day after an election~~
13 ~~need be the only report filed after the annual May report if~~
14 ~~the candidate is not opposed in the election and if the report~~
15 ~~includes all expenditures made and contributions received for~~
16 ~~that election and not previously reported.] In an election~~
17 year, a public official who is not a candidate shall file
18 quarterly reports of expenditures made and contributions
19 received or statements of no activity in accordance with the
20 schedule provided for in Subsection A of this section.

21 E. A report of expenditures and contributions filed
22 after a deadline set forth in this section shall not be deemed
23 to have been timely filed.

24 F. Except for candidates and public officials who
25 file a statement of no activity, each reporting individual

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1 shall file a report of expenditures and contributions
2 [~~annually~~] pursuant to the filing [~~schedule~~] schedules set
3 forth in this section, regardless of whether any expenditures
4 were made or contributions were received during the reporting
5 period. Reports shall be required until the reporting
6 individual delivers a report to the proper filing officer
7 stating that:

- 8 (1) there are no outstanding campaign debts;
9 (2) all money has been expended in accordance
10 with the provisions of Section 1-19-29.1 NMSA 1978; and
11 (3) the bank account has been closed.

12 G. Each treasurer of a political committee shall
13 file a report of expenditures and contributions [~~annually~~]
14 pursuant to the filing [~~schedule~~] schedules set forth in this
15 section until the treasurer files a report that affirms that
16 the committee has dissolved or no longer exists and that its
17 bank account has been closed.

18 H. A reporting individual who is a candidate within
19 the meaning of the Campaign Reporting Act because of the amount
20 of contributions the candidate receives or expenditures the
21 candidate makes and who does not ultimately file a declaration
22 of candidacy or a nominating petition with the proper filing
23 officer and does not file a statement of no activity shall
24 [~~nevertheless file a report, not later than the second Monday~~
25 ~~in May for a primary election or the second Monday in October~~

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1 ~~for a general election, of all contributions received and~~
2 ~~expenditures made on or before the first Monday in May for a~~
3 ~~primary election or the first Monday in October for a general~~
4 ~~election and not previously reported]~~ file quarterly reports in
5 accordance with Subsection A of this section.

6 I. Reports required by this section shall be
7 subscribed and sworn to by the candidate or the treasurer of
8 the political committee. A report filed electronically shall
9 be electronically authenticated by the candidate or the
10 treasurer of the political committee using an electronic
11 signature in conformance with the Electronic Authentication of
12 Documents Act and the Uniform Electronic Transactions Act. For
13 the purposes of the Campaign Reporting Act, a report that is
14 electronically authenticated in accordance with the provisions
15 of this subsection shall be deemed to have been subscribed and
16 sworn to by the candidate or the treasurer of the political
17 committee who was required to file the report.

18 J. Reports required by this section shall be filed
19 electronically by all reporting individuals.

20 K. Reporting individuals may apply to the secretary
21 of state for exemption from electronic filing in case of
22 hardship, which shall be defined by the secretary of state."

23 Section 5. Section 1-19-32.1 NMSA 1978 (being Laws 1981,
24 Chapter 331, Section 9, as amended) is amended to read:

25 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF
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1 REPORTS.--

2 A. The secretary of state shall conduct a thorough
3 examination of at least ten percent of all reports filed during
4 a year by reporting individuals, selected at random at least
5 forty days after the general election and ten days after the
6 [~~May~~] April reports are filed in a nonelection year, to
7 determine compliance with the provisions of the Campaign
8 Reporting Act. The examination may include an investigation of
9 any discrepancies, including a cross-reference to reports filed
10 by any other reporting individual. A reporting individual
11 shall be notified in writing if a discrepancy is found in the
12 report filed and shall be permitted to file a written
13 explanation for the discrepancy within ten working days of the
14 date of the notice. The notice, penalty and arbitration
15 provisions set forth in Section 1-19-34.4 NMSA 1978 shall apply
16 to examinations conducted under this section.

17 B. After the date stated in the notice of final
18 action for submission of a written explanation, the secretary
19 of state shall prepare an annual report of any unresolved
20 discrepancies found after examination of the random sample
21 provided for in Subsection A of this section. A copy of this
22 report shall be transmitted to the attorney general for
23 enforcement pursuant to the provisions of Section 1-19-36 NMSA
24 1978. This report is a public record open to public inspection
25 and subject to the retention and destruction provisions set

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1 forth in Section 1-19-32 NMSA 1978.

2 ~~[G. A county clerk shall deliver to the secretary~~
3 ~~of state, within forty-eight hours of the county clerk's~~
4 ~~receipt, each report of expenditures and contributions or~~
5 ~~statement of exception filed with the county clerk's office.~~
6 ~~Within forty-eight hours of receipt of a report of expenditures~~
7 ~~and contributions or statement of exception filed by a~~
8 ~~legislative candidate for a multicounty district, the secretary~~
9 ~~of state shall deliver to each county clerk in the multicounty~~
10 ~~legislative district a copy of the report or statement filed.]"~~

11 Section 6. Section 1-19-35 NMSA 1978 (being Laws 1979,
12 Chapter 360, Section 11, as amended by Laws 1997, Chapter 12,
13 Section 2 and also by Laws 1997, Chapter 112, Section 5) is
14 amended to read:

15 "1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY--
16 FAILURE TO FILE.--

17 A. Except for the report required to be filed and
18 delivered the Thursday prior to the election and any
19 supplemental report, as required in Paragraph [~~2~~] (4) of
20 Subsection B of Section 1-19-29 NMSA 1978, that is due prior to
21 the election, and subject to the provisions of Section
22 1-19-34.4 NMSA 1978, if a statement of [~~exception~~] no activity
23 or a report of expenditures and contributions contains false or
24 incomplete information or is filed after any deadline imposed
25 by the Campaign Reporting Act, the responsible reporting

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1 individual or political committee, in addition to any other
2 penalties or remedies prescribed by the Election Code, shall be
3 liable for and shall pay to the secretary of state fifty
4 dollars (\$50.00) per day for each regular working day after the
5 time required by the Campaign Reporting Act for the filing of
6 statements of [~~exception~~] no activity or reports of
7 expenditures and contributions until the complete or true
8 statement or report is filed, up to a maximum of five thousand
9 dollars (\$5,000).

10 B. If any reporting individual files a false,
11 intentionally incomplete or late report of expenditures and
12 contributions due on the Thursday prior to the election, the
13 reporting individual or political committee shall be liable and
14 pay to the secretary of state five hundred dollars (\$500) for
15 the first working day and fifty dollars (\$50.00) for each
16 subsequent working day after the time required for the filing
17 of the report until the true and complete report is filed, up
18 to a maximum of five thousand dollars (\$5,000).

19 C. If a reporting individual fails to file or files
20 a late supplemental report of expenditures and contributions as
21 required in Paragraph [~~(2)~~] (4) of Subsection B of Section
22 1-19-29 NMSA 1978, the reporting individual or political
23 committee shall be liable for and pay to the secretary of state
24 a penalty equal to the amount of each contribution received or
25 pledged after the Tuesday before the election that was not

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1 timely filed.

2 D. All sums collected for the penalty shall be
3 deposited in the state general fund. A report or statement of
4 exception shall be deemed timely filed only if it is received
5 by the proper filing officer by the date and time prescribed by
6 law.

7 E. Any candidate who fails or refuses to file a
8 report of expenditures and contributions or statement of
9 [~~exception~~] no activity or to pay a penalty imposed by the
10 secretary of state as required by the Campaign Reporting Act
11 shall not, in addition to any other penalties provided by law:

12 (1) have [~~his~~] the candidate's name printed
13 upon the ballot if the violation occurs before and through the
14 final date for the withdrawal of candidates; or

15 (2) be issued a certificate of nomination or
16 election, if the violation occurs after the final date for
17 withdrawal of candidates or after the election, until the
18 candidate satisfies all reporting requirements of the Campaign
19 Reporting Act and pays all penalties owed.

20 F. Any candidate who loses an election and who
21 failed or refused to file a report of expenditures and
22 contributions or a statement of [~~exception~~] no activity or to
23 pay a penalty imposed by the secretary of state as required by
24 the Campaign Reporting Act shall not be, in addition to any
25 other penalties provided by law, permitted to file a

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1 declaration of candidacy or nominating petition for any future
2 election until the candidate satisfies all reporting
3 requirements of that act and pays all penalties owed."

4 Section 7. REPEAL.--Section 1-19-33 NMSA 1978 (being Laws
5 1979, Chapter 360, Section 9, as amended) is repealed.

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