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SENATE BILL 321

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Dede Feldman

AN ACT

**RELATING TO ELECTIONS; AMENDING THE CAMPAIGN REPORTING ACT;
PROVIDING FOR ELECTRONIC REPORTING AND RETRIEVAL OF
INFORMATION; MAKING AN APPROPRIATION.**

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
bulk mailings of printed materials;**

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1 B. "anonymous contribution" means a contribution
2 the contributor of which is unknown to the candidate or his
3 agent or the political committee or its agent who accepts the
4 contribution;

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

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

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

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

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

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1 more for the purpose of seeking election to the office or for
2 candidacy exploration purposes in the years prior to the year
3 of the election;

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

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

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

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

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

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

10 L. "political committee" means two or more
11 persons, other than members of a candidate's immediate family
12 or campaign committee or a husband and wife who make a
13 contribution out of a joint account, who are selected,
14 appointed, chosen, associated, organized or operated primarily
15 for a political purpose and includes political action
16 committees or similar organizations composed of employees or
17 members of [~~any~~] a corporation, labor organization, trade or
18 professional association or any other similar group that
19 raises, collects, expends or contributes money or any other
20 thing of value for a political purpose; provided that a
21 political committee includes a single individual who by his
22 actions represents that he is a political committee and a
23 person or an organization of two or more persons that within
24 one calendar year expends funds in excess of [~~two thousand~~
25 ~~dollars (\$2,000)~~] five hundred dollars (\$500) to conduct an

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1 advertising campaign for a political purpose;

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

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

8 O. "proper filing officer" means either the
9 secretary of state or the county clerk as provided in Section
10 1-19-27 NMSA 1978;

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

15 Q. "reporting individual" means every public
16 official, candidate or treasurer of a campaign committee and
17 every treasurer of a political committee; and

18 R. "statement of exception" or "statement" means
19 the prescribed form subscribed and sworn to by a candidate to
20 indicate that the candidate does not intend to raise or expend
21 the minimum amount required for the filing of a report of
22 expenditures and contributions as provided in Section 1-19-33
23 NMSA 1978. "

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

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

2 A. Except for those candidates who file a
3 statement of exception in an election year pursuant to Section
4 1-19-33 NMSA 1978, all reporting individuals shall annually
5 file with the proper filing officer a report of expenditures
6 and contributions on a prescribed form. The report shall be
7 filed on the second Monday in May pursuant to the provisions
8 of Subsection A of Section 1-19-29 NMSA 1978.

9 B. The proper filing officer for filing reports of
10 expenditures and contributions or statements of exception is
11 the secretary of state for a public official in or a candidate
12 seeking any of the following offices:

13 (1) a statewide elective office;

14 (2) an elected judicial office [~~in the~~
15 ~~judicial department~~], except a magistrate; [~~and~~]

16 (3) an office other than a legislative
17 office, representing a district composed of more than one
18 county; or

19 (4) a legislative office, except that,
20 through December 31, 2003, legislators representing or
21 candidates seeking to represent multicounty districts may file
22 reports of expenditures and contributions or statements of
23 exception with either the secretary of state or with the
24 county clerk in the county in which they reside.

25 C. The proper filing officer for filing reports of

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1 expenditures and contributions or statements of exception is
2 the county clerk for a public official in or a candidate
3 seeking any of the following offices:

- 4 (1) an elective county office;
- 5 (2) a magistrate; and
- 6 (3) through December 31, 2003, a state
7 legislative office elected from a district located wholly
8 within one county.

9 D. The proper filing officer for filing reports of
10 expenditures and contributions by a political committee is the
11 secretary of state.

12 E. The secretary of state shall develop or
13 contract for services to develop an electronic reporting
14 system for receiving and for public inspection of reports of
15 expenditures and contributions and statements of exception
16 pursuant to the Campaign Reporting Act. The electronic
17 reporting system shall include:

- 18 (1) an electronic format for reports and
19 statements;
- 20 (2) computer software to be provided to
21 reporting individuals for their compliance with the Campaign
22 Reporting Act; and
- 23 (3) provisions for encrypted transmissions."

24 Section 3. Section 1-19-29 NMSA 1978 (being Laws 1993,
25 Chapter 46, Section 5, as amended by Laws 1997, Chapter 12,

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1 Section 1 and also by Laws 1997, Chapter 112, Section 3) is
2 amended to read:

3 "1-19-29. TIME AND PLACE OF FILING REPORTS. --

4 A. Annually, all reporting individuals shall file
5 with the proper filing officer by 5:00 p.m. on the second
6 Monday in ~~May~~ a report of all expenditures made and
7 contributions received on or before the first Monday in ~~May~~
8 and not previously reported. The report shall be filed
9 annually until the reporting individual's bank account has
10 been closed and the other provisions specified in Subsection E
11 of this section have been satisfied.

12 B. In an election year, in addition to the ~~May~~
13 report provided for in Subsection A of this section, all
14 reporting individuals, except for persons who file a statement
15 of exception pursuant to Section 1-19-33 NMSA 1978 and except
16 for public officials who are not candidates in an election
17 that year, shall file reports of all expenditures made and
18 contributions received according to the following schedule:

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

23 (2) by 5:00 p.m. on the Thursday before a
24 primary, general or statewide special election, a report of
25 all expenditures made and contributions received by 5:00 p.m.

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

14 (3) by 5:00 p.m. on the thirtieth day after a
15 primary, general or statewide special election, a report of
16 all expenditures made and contributions received on or before
17 the twenty-fifth day after the election and not previously
18 reported.

19 C. Notwithstanding the other provisions of this
20 section, the report due on the thirtieth day after an election
21 need be the only report filed after the annual May report if
22 the candidate is not opposed in the election and if the report
23 includes all expenditures made and contributions received for
24 that election and not previously reported.

25 D. A report of expenditures and contributions

1 filed after a deadline set forth in this section shall not be
2 deemed to have been timely filed.

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

10 (1) there are no outstanding campaign debts;

11 (2) all money has been expended in accordance
12 with the provisions of Section 1-19-29.1 NMSA 1978; and

13 (3) the bank account has been closed.

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

20 G. A reporting individual who is a candidate
21 within the meaning of the Campaign Reporting Act because of
22 the amount of contributions he receives or expenditures he
23 makes and who does not ultimately file a declaration of
24 candidacy or a nominating petition with the proper filing
25 officer shall nevertheless file a report, not later than the

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1 second Monday in May for a primary election or the second
2 Monday in October for a general election, of all contributions
3 received and expenditures made on or before the first Monday
4 in May for a primary election or the first Monday in October
5 for a general election, and not previously reported.

6 H. Reports required by this section shall be filed
7 electronically beginning:

8 (1) January 1, 2002 for statewide elective
9 office reporting individuals, except for individuals who have
10 contributions or expenditures in any election year of less
11 than two thousand five hundred dollars (\$2,500) for a primary,
12 general or special election;

13 (2) January 1, 2004 for legislative, public
14 regulation commission and political committee reporting
15 individuals, except for individuals who have contributions or
16 expenditures in any election year of less than five hundred
17 dollars (\$500) for a primary, general or special election; and

18 (3) January 1, 2008 for all statewide
19 elective office, legislative, public regulation commission and
20 political committee reporting individuals. "

21 Section 4. Section 1-19-32 NMSA 1978 (being Laws 1979,
22 Chapter 360, Section 8, as amended) is amended to read:

23 "1-19-32. INSPECTION OF PUBLIC RECORDS. --

24 A. Each of the following documents is a public
25 record open to public inspection during regular office hours

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1 in the office in which the document was filed or from which
2 the document was issued:

- 3 (1) a statement of exception;
- 4 (2) a report of expenditures and
5 contributions;
- 6 (3) an advisory opinion issued by the
7 secretary of state;
- 8 (4) a document specified as a public record
9 in the Campaign Reporting Act; and
- 10 (5) an arbitration decision issued by an
11 arbitration panel and filed with the secretary of state.

12 B. Each public record described in Subsection A of
13 this section shall be retained by the state for five years and
14 may be destroyed five years after the date of filing unless a
15 legal action or prosecution is pending that requires the
16 preservation of the public record.

17 C. The secretary of state shall provide electronic
18 access to reports of expenditures and contributions and
19 statements of exception submitted electronically by reporting
20 individuals. The electronic access shall include access via
21 the internet and shall be in an easily searchable format. "

22 Section 5. APPROPRIATION. -- Seven hundred seventy-eight
23 thousand dollars (\$778,000) is appropriated from the general
24 fund to the office of the secretary of state for expenditure
25 in fiscal years 2002 and 2003 to design, develop and operate

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1 an electronic reporting system and to fund one full-time-
2 equivalent position. Any unexpended or unencumbered balance
3 remaining at the end of fiscal year 2003 shall revert to the
4 general fund.