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AN ACT

RELATING TO ELECTIONS; REQUIRING CERTAIN CAMPAIGN REPORTS TO
BE FILED BIANNUALLY; 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 bulk mailings of printed materials;

B. "anonymous contribution" means a contribution
the contributor of which is unknown to the candidate or the
candidate's agent or the political committee or its agent who
accepts the contribution;

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

D. "campaign committee" means two or more persons
authorized by a candidate to raise, collect or expend

1 contributions on the candidate's behalf for the purpose of
2 electing the candidate to office;

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

7 (1) for a non-statewide office, has received
8 contributions or made expenditures of one thousand dollars
9 (\$1,000) or more or authorized another person or campaign
10 committee to receive contributions or make expenditures of
11 one thousand dollars (\$1,000) or more for the purpose of
12 seeking election to the office; or

13 (2) for a statewide office, has received
14 contributions or made expenditures of two thousand five
15 hundred dollars (\$2,500) or more or authorized another person
16 or campaign committee to receive contributions or make
17 expenditures of two thousand five hundred dollars (\$2,500) or
18 more for the purpose of seeking election to the office or for
19 candidacy exploration purposes in the years prior to the year
20 of the election;

21 F. "contribution" means a gift, subscription,
22 loan, advance or deposit of money or other thing of value,
23 including the estimated value of an in-kind contribution,
24 that is made or received for a political purpose, including
25 payment of a debt incurred in an election campaign, but

1 "contribution" does not include the value of services
2 provided without compensation or unreimbursed travel or other
3 personal expenses of individuals who volunteer a portion or
4 all of their time on behalf of a candidate or political
5 committee, nor does it include the administrative or
6 solicitation expenses of a political committee that are paid
7 by an organization that sponsors the committee;

8 G. "deliver" or "delivery" means to deliver by
9 certified or registered mail, telecopier, electronic
10 transmission or facsimile or by personal service;

11 H. "election" means any primary, general or
12 statewide special election in New Mexico and includes county
13 and judicial retention elections but excludes municipal,
14 school board and special district elections;

15 I. "election year" means an even-numbered year in
16 which an election covered by the Campaign Reporting Act is
17 held;

18 J. "expenditure" means a payment, transfer or
19 distribution or obligation or promise to pay, transfer or
20 distribute any money or other thing of value for a political
21 purpose, including payment of a debt incurred in an election
22 campaign or pre-primary convention, but does not include the
23 administrative or solicitation expenses of a political
24 committee that are paid by an organization that sponsors the
25 committee;

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

2 L. "political committee" means two or more
3 persons, other than members of a candidate's immediate family
4 or campaign committee or a husband and wife who make a
5 contribution out of a joint account, who are selected,
6 appointed, chosen, associated, organized or operated
7 primarily for a political purpose; and "political committee"
8 includes:

9 (1) political action committees or similar
10 organizations composed of employees or members of any
11 corporation, labor organization, trade or professional
12 association or any other similar group that raises, collects,
13 expends or contributes money or any other thing of value for
14 a political purpose;

15 (2) a single individual whose actions
16 represent that the individual is a political committee; and

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

21 M. "political purpose" means influencing or
22 attempting to influence an election or pre-primary
23 convention, including a constitutional amendment or other
24 question submitted to the voters;

25 N. "prescribed form" means a form or electronic

1 format prepared and prescribed by the secretary of state;

2 O. "proper filing officer" means either the
3 secretary of state or the county clerk as provided in Section
4 1-19-27 NMSA 1978;

5 P. "public official" means a person elected to an
6 office in an election covered by the Campaign Reporting Act
7 or a person appointed to an office that is subject to an
8 election covered by that act; and

9 Q. "reporting individual" means every public
10 official, candidate or treasurer of a campaign committee and
11 every treasurer of a political committee."

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

14 "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER.--

15 A. Except for those candidates and public officials
16 who file a statement of no activity, all reporting
17 individuals shall file with the proper filing officer a
18 report of expenditures and contributions on a prescribed
19 form.

20 B. The proper filing officer for filing reports of
21 expenditures and contributions by a political committee is
22 the secretary of state.

23 C. The proper filing officer for filing reports of
24 expenditures and contributions or statements of no activity
25 is the secretary of state for all candidates and public

1 officials.

2 D. The secretary of state shall develop or
3 contract for services to develop an electronic reporting
4 system for receiving and for public inspection of reports of
5 expenditures and contributions and statements of no activity
6 to the Campaign Reporting Act. The electronic reporting
7 system shall:

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

11 (2) provide for encrypted transmissions."

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

14 "1-19-28. FURNISHING REPORT FORMS--POLITICAL
15 COMMITTEES--CANDIDATES.--

16 A. The secretary of state annually shall furnish
17 to all reporting individuals the prescribed forms for the
18 reporting of expenditures and contributions, supplemental
19 reports and a statement of no activity and the specific dates
20 the reports and statement are due.

21 B. In addition to the provisions of Subsection A
22 of this section, at the time of filing a declaration of
23 candidacy or a nominating petition, the proper filing officer
24 shall give the candidate the prescribed reporting forms and
25 the schedule of specific dates for filing the required

1 reports or a statement of no activity. The prescribed forms
2 shall also be made available to all reporting individuals at
3 the office of the secretary of state and in each county at
4 the office of the county clerk."

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

7 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

8 A. Except as otherwise provided in this section,
9 all reporting individuals shall file with the proper filing
10 officer by 5:00 p.m. on the second Monday in April and
11 October a report of all expenditures made and contributions
12 received on or before the first Monday in those months and
13 not previously reported. The report shall be filed
14 biannually until the reporting individual's bank account has
15 been closed and the other provisions specified in Subsection
16 F of this section have been satisfied.

17 B. In an election year, instead of the biannual
18 reports provided for in Subsection A of this section, all
19 reporting individuals, except for public officials who are
20 not candidates in an election that year, shall file reports
21 of all expenditures made and contributions received or, if
22 applicable, statements of no activity, according to the
23 following schedule:

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

1 received on or before the first Monday in April and not
2 previously reported;

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

7 (3) by 5:00 p.m. on the second Monday in
8 September, a report of all expenditures made and
9 contributions received on or before the first Monday in
10 September and not previously reported;

11 (4) by 5:00 p.m. on the second Monday in
12 October, a report of all expenditures made and contributions
13 received on or before the first Monday in October and not
14 previously reported;

15 (5) by 5:00 p.m. on the Thursday before a
16 primary, general or statewide special election, a report of
17 all expenditures made and contributions received by 5:00 p.m.
18 on the Tuesday before the election. Any contribution or
19 pledge to contribute that is received after 5:00 p.m. on the
20 Tuesday before the election and that is for five hundred
21 dollars (\$500) or more in a legislative or non-statewide
22 judicial election, or two thousand five hundred dollars
23 (\$2,500) or more in a statewide election, shall be reported
24 to the proper filing officer either in a supplemental report
25 on a prescribed form within twenty-four hours of receipt or

1 in the report to be filed by 5:00 p.m. on the Thursday before
2 a primary, general or statewide special election, except that
3 any such contribution or pledge to contribute that is
4 received after 5:00 p.m. on the Friday before the election
5 may be reported by 12:00 noon on the Monday before the
6 election; and

7 (6) by 5:00 p.m. on the thirtieth day after
8 a primary, general or statewide special election, a report of
9 all expenditures made and contributions received on or before
10 the twenty-fifth day after the election and not previously
11 reported.

12 C. If a candidate or public official has not
13 received any contributions and has not made any expenditures
14 since the candidate's or official's last report was filed
15 with the proper filing officer, the candidate or official
16 shall only be required to file a statement of no activity,
17 which shall not be required to be notarized, in lieu of a
18 full report when that report would otherwise be due and shall
19 not be required to file a full report until the next required
20 filing date occurring after an expenditure is made or a
21 contribution is received.

22 D. In an election year, a public official who is
23 not a candidate shall file biannual reports of expenditures
24 made and contributions received or statements of no activity
25 in accordance with the schedule provided for in Subsection A

1 of this section.

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

5 F. Except for candidates and public officials who
6 file a statement of no activity, each reporting individual
7 shall file a report of expenditures and contributions
8 pursuant to the filing schedules set forth in this section,
9 regardless of whether any expenditures were made or
10 contributions were received during the reporting period.
11 Reports shall be required until the reporting individual
12 delivers a report to the proper filing officer stating that:

13 (1) there are no outstanding campaign debts;

14 (2) all money has been expended in
15 accordance with the provisions of Section 1-19-29.1 NMSA
16 1978; and

17 (3) the bank account has been closed.

18 G. Each treasurer of a political committee shall
19 file a report of expenditures and contributions pursuant to
20 the filing schedules set forth in this section until the
21 treasurer files a report that affirms that the committee has
22 dissolved or no longer exists and that its bank account has
23 been closed.

24 H. A reporting individual who is a candidate
25 within the meaning of the Campaign Reporting Act because of

1 the amount of contributions the candidate receives or
2 expenditures the candidate makes and who does not ultimately
3 file a declaration of candidacy or a nominating petition with
4 the proper filing officer and does not file a statement of no
5 activity shall file biannual reports in accordance with
6 Subsection A of this section.

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

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

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

25 Section 5. Section 1-19-32.1 NMSA 1978 (being Laws

1 1981, Chapter 331, Section 9, as amended) is amended to read:

2 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF
3 REPORTS.--

4 A. The secretary of state shall conduct a thorough
5 examination of at least ten percent of all reports filed
6 during a year by reporting individuals, selected at random at
7 least forty days after the general election and ten days
8 after the April reports are filed in a nonelection year, to
9 determine compliance with the provisions of the Campaign
10 Reporting Act. The examination may include an investigation
11 of any discrepancies, including a cross-reference to reports
12 filed by any other reporting individual. A reporting
13 individual shall be notified in writing if a discrepancy is
14 found in the report filed and shall be permitted to file a
15 written explanation for the discrepancy within ten working
16 days of the date of the notice. The notice, penalty and
17 arbitration provisions set forth in Section 1-19-34.4 NMSA
18 1978 shall apply to examinations conducted under this
19 section.

20 B. After the date stated in the notice of final
21 action for submission of a written explanation, the secretary
22 of state shall prepare an annual report of any unresolved
23 discrepancies found after examination of the random sample
24 provided for in Subsection A of this section. A copy of this
25 report shall be transmitted to the attorney general for

1 enforcement pursuant to the provisions of Section 1-19-36
2 NMSA 1978. This report is a public record open to public
3 inspection and subject to the retention and destruction
4 provisions set forth in Section 1-19-32 NMSA 1978."

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

9 "1-19-35. REPORTS AND STATEMENTS--LATE FILING
10 PENALTY--FAILURE TO FILE.--

11 A. Except for the report required to be filed and
12 delivered the Thursday prior to the election and any
13 supplemental report, as required in Paragraph (5) of
14 Subsection B of Section 1-19-29 NMSA 1978, that is due prior
15 to the election, and subject to the provisions of Section
16 1-19-34.4 NMSA 1978, if a statement of no activity or a
17 report of expenditures and contributions contains false or
18 incomplete information or is filed after any deadline imposed
19 by the Campaign Reporting Act, the responsible reporting
20 individual or political committee, in addition to any other
21 penalties or remedies prescribed by the Election Code, shall
22 be liable for and shall pay to the secretary of state fifty
23 dollars (\$50.00) per day for each regular working day after
24 the time required by the Campaign Reporting Act for the
25 filing of statements of no activity or reports of

1 expenditures and contributions until the complete or true
2 statement or report is filed, up to a maximum of five
3 thousand dollars (\$5,000).

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

13 C. If a reporting individual fails to file or
14 files a late supplemental report of expenditures and
15 contributions as required in Paragraph (5) of Subsection B of
16 Section 1-19-29 NMSA 1978, the reporting individual or
17 political committee shall be liable for and pay to the
18 secretary of state a penalty equal to the amount of each
19 contribution received or pledged after the Tuesday before the
20 election that was not timely filed.

21 D. All sums collected for the penalty shall be
22 deposited in the state general fund. A report or statement
23 of exception shall be deemed timely filed only if it is
24 received by the proper filing officer by the date and time
25 prescribed by law.

1 E. Any candidate who fails or refuses to file a
2 report of expenditures and contributions or statement of no
3 activity or to pay a penalty imposed by the secretary of
4 state as required by the Campaign Reporting Act shall not, in
5 addition to any other penalties provided by law:

6 (1) have the candidate's name printed upon
7 the ballot if the violation occurs before and through the
8 final date for the withdrawal of candidates; or

9 (2) be issued a certificate of nomination or
10 election, if the violation occurs after the final date for
11 withdrawal of candidates or after the election, until the
12 candidate satisfies all reporting requirements of the
13 Campaign Reporting Act and pays all penalties owed.

14 F. Any candidate who loses an election and who
15 failed or refused to file a report of expenditures and
16 contributions or a statement of no activity or to pay a
17 penalty imposed by the secretary of state as required by the
18 Campaign Reporting Act shall not be, in addition to any other
19 penalties provided by law, permitted to file a declaration of
20 candidacy or nominating petition for any future election
21 until the candidate satisfies all reporting requirements of
22 that act and pays all penalties owed."

23 Section 7. REPEAL.--Section 1-19-33 NMSA 1978
24 (being Laws 1979, Chapter 360, Section 9, as amended) is
25 repealed. _____