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HOUSE BILL 398

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Thomas A. Anderson

AN ACT

RELATING TO CAMPAIGN REPORTING; ELIMINATING THE EXEMPTION FROM
FILING OF CAMPAIGN EXPENDITURES AND CONTRIBUTIONS; REQUIRING
THE SECRETARY OF STATE TO POST RANDOM AUDIT RESULTS OF CAMPAIGN
EXPENDITURES AND CONTRIBUTIONS ON THE SECRETARY OF STATE'S WEB
SITE; REQUIRING THE SECRETARY OF STATE TO POST AN ANNUAL REPORT
OF UNRESOLVED CAMPAIGN EXPENDITURE AND CONTRIBUTION
DISCREPANCIES ON THE SECRETARY OF STATE'S WEB SITE.

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

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

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

A. Except as otherwise provided in this section,
all reporting individuals shall file with the proper filing
officer by 5:00 p.m. on the second Monday in April and October

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1 a report of all expenditures made and contributions received on
2 or before the first Monday in those months and not previously
3 reported. The report shall be filed biannually until the
4 reporting individual's bank account has been closed and the
5 other provisions specified in Subsection F of this section have
6 been satisfied.

7 B. In an election year, instead of the biannual
8 reports provided for in Subsection A of this section, all
9 reporting individuals, except for public officials who are not
10 candidates in an election that year, shall file reports of all
11 expenditures made and contributions received or, if applicable,
12 statements of no activity, according to the following schedule:

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

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

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

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

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

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

19 (6) by 5:00 p.m. on the thirtieth day after a
20 primary, general or statewide special election, a report of all
21 expenditures made and contributions received on or before the
22 twenty-fifth day after the election and not previously
23 reported.

24 C. If a candidate or public official has not
25 received any contributions and has not made any expenditures

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

8 D. In an election year, a public official who is
9 not a candidate shall file biannual reports of expenditures
10 made and contributions received or statements of no activity in
11 accordance with the schedule provided for in Subsection A of
12 this section.

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

16 F. Except for candidates and public officials who
17 file a statement of no activity, each reporting individual
18 shall file a report of expenditures and contributions pursuant
19 to the filing schedules set forth in this section, regardless
20 of whether any expenditures were made or contributions were
21 received during the reporting period. Reports shall be
22 required until the reporting individual delivers a report to
23 the proper filing officer stating that:

- 24 (1) there are no outstanding campaign debts;
25 (2) all money has been expended in accordance

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1 with the provisions of Section 1-19-29.1 NMSA 1978; and

2 (3) the bank account has been closed.

3 G. Each treasurer of a political committee shall
4 file a report of expenditures and contributions pursuant to the
5 filing schedules set forth in this section until the treasurer
6 files a report that affirms that the committee has dissolved or
7 no longer exists and that its bank account has been closed.

8 H. A reporting individual who is a candidate within
9 the meaning of the Campaign Reporting Act because of the amount
10 of contributions the candidate receives or expenditures the
11 candidate makes and who does not ultimately file a declaration
12 of candidacy or a nominating petition with the proper filing
13 officer and does not file a statement of no activity shall file
14 biannual reports in accordance with Subsection A of this
15 section.

16 I. Reports required by this section shall be
17 subscribed and sworn to by the candidate or the treasurer of
18 the political committee. A report filed electronically shall
19 be electronically authenticated by the candidate or the
20 treasurer of the political committee using an electronic
21 signature in conformance with the Electronic Authentication of
22 Documents Act and the Uniform Electronic Transactions Act. For
23 the purposes of the Campaign Reporting Act, a report that is
24 electronically authenticated in accordance with the provisions
25 of this subsection shall be deemed to have been subscribed and

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1 sworn to by the candidate or the treasurer of the political
2 committee who was required to file the report.

3 J. Reports required by this section shall be filed
4 electronically by all reporting individuals.

5 ~~[K. Reporting individuals may apply to the~~
6 ~~secretary of state for exemption from electronic filing in case~~
7 ~~of hardship, which shall be defined by the secretary of~~
8 ~~state.]"~~

9 SECTION 2. Section 1-19-32.1 NMSA 1978 (being Laws 1981,
10 Chapter 331, Section 9, as amended) is amended to read:

11 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF
12 REPORTS.--

13 A. The secretary of state shall conduct a thorough
14 examination of at least ten percent of all reports filed
15 during a year by reporting individuals, selected at random at
16 least forty days after the general election and ten days after
17 the April reports are filed in a nonelection year, to determine
18 compliance with the provisions of the Campaign Reporting Act.
19 The examination may include an investigation of any
20 discrepancies, including a cross-reference to reports filed by
21 any other reporting individual. A reporting individual shall
22 be notified in writing if a discrepancy is found in the report
23 filed and shall be permitted to file a written explanation for
24 the discrepancy within ten working days of the date of the
25 notice. The notice, penalty and arbitration provisions set

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1 forth in Section 1-19-34.4 NMSA 1978 shall apply to
2 examinations conducted under this section.

3 B. After the date stated in the notice of final
4 action for submission of a written explanation, the secretary
5 of state shall prepare an annual report of any unresolved
6 discrepancies found after examination of the random sample
7 provided for in Subsection A of this section. A copy of this
8 report shall be transmitted to the attorney general for
9 enforcement pursuant to the provisions of Section 1-19-36 NMSA
10 1978. This report is a public record open to public inspection
11 and subject to the retention and destruction provisions set
12 forth in Section 1-19-32 NMSA 1978.

13 C. The secretary of state shall post the results of
14 the random audits performed pursuant to Subsection A of this
15 section and the annual report of unresolved discrepancies
16 prepared pursuant to Subsection B of this section on the
17 secretary of state's web site."