

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 11

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO CAMPAIGN FINANCE; REQUIRING REPORTING OF
INDEPENDENT EXPENDITURES; BASING CONTRIBUTION LIMITS ON THE
CALENDAR YEAR; REDEFINING "POLITICAL COMMITTEE"; DEFINING
"ADVERTISEMENT", "BALLOT MEASURE", "CAMPAIGN EXPENDITURE",
"COORDINATED EXPENDITURE", "INDEPENDENT EXPENDITURE" AND
"INDEPENDENT EXPENDITURE COMMITTEE"; PROHIBITING THE CONCEALING
OF THE SOURCE OF CONTRIBUTIONS; RECONCILING MULTIPLE AMENDMENTS
TO THE SAME SECTION OF LAW IN LAWS 2009; AMENDING, REPEALING
AND ENACTING SECTIONS OF THE NMSA 1978; PROVIDING PENALTIES;
DECLARING AN EMERGENCY.

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

SECTION 1. A new section of the Campaign Reporting Act is
enacted to read:

"[NEW MATERIAL] INDEPENDENT EXPENDITURES--REPORTING

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underscored material = new
[bracketed material] = delete

1 REQUIREMENTS.--

2 A. Within three days after making an independent
3 expenditure that is not otherwise required to be reported
4 pursuant to the Campaign Reporting Act, the person who made the
5 expenditure shall file a report of the expenditure with the
6 secretary of state.

7 B. The report required by Subsection A of this
8 section shall state:

9 (1) the name and address of the person who
10 made the expenditure;

11 (2) the name and address of the person to whom
12 the independent expenditure was made and the amount, date and
13 purpose of the expenditure; if no reasonable estimate of the
14 monetary value of a particular expenditure is practicable, it
15 is sufficient to report instead a description of the services,
16 property or rights furnished through the expenditure; and

17 (3) the name and address of, and the amount of
18 each contribution not previously reported for, each contributor
19 who contributed one hundred dollars (\$100) or more in the
20 aggregate during the year preceding the expenditure that were:

21 (a) earmarked by the contributor to be
22 used to make the independent expenditure covered by the report;
23 or

24 (b) made in response to a solicitation
25 that refers to the independent expenditure to be covered by the

1 report and requests contributions to fund that independent
2 expenditure.

3 C. For an independent expenditure of three thousand
4 dollars (\$3,000) or more or a series of independent
5 expenditures that in the aggregate total more than three
6 thousand dollars (\$3,000) in a twelve-month period, the report
7 required by Subsection A shall also state:

8 (1) if the expenditure was made from a
9 segregated bank account that consists only of funds contributed
10 to the account by individuals for the purpose of making
11 independent expenditures, the name and address of, and the
12 amount of each contribution not previously reported for, each
13 contributor who contributed more than one hundred dollars
14 (\$100) in the aggregate to the account during the preceding
15 calendar year; or

16 (2) if the expenditure was made from funds
17 other than those described in Paragraph (1) of this subsection,
18 the name and address of, and amount of each contribution not
19 previously reported for, each contributor who contributed more
20 than five thousand dollars (\$5,000) in the aggregate to the
21 person who made the expenditure during the preceding calendar
22 year.

23 D. Independent expenditures shall be reported
24 electronically using software provided or approved by the
25 secretary of state. The secretary of state may make exceptions

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1 on a case-by-case basis for a person who lacks the
2 technological ability to file reports using the electronic
3 means provided or approved by the secretary of state.

4 E. Failure of any person to report electronically
5 pursuant to this section is a violation of the Campaign
6 Reporting Act."

7 SECTION 2. A new section of the Campaign Reporting Act is
8 enacted to read:

9 "[NEW MATERIAL] CONCEALING THE SOURCE OF CONTRIBUTIONS
10 PROHIBITED--CIVIL PENALTY.--

11 A. It is unlawful for a person to willfully
12 conduct, structure, engage in or participate in a financial
13 transaction that involves a contribution if the person knows,
14 or should have known, that the financial transaction is
15 designed deliberately in whole or in part to:

16 (1) avoid or evade the contribution limits in
17 the Campaign Reporting Act; or

18 (2) conceal or disguise the source of the
19 contribution to avoid a reporting requirement under the
20 Campaign Reporting Act.

21 B. It is unlawful for any person to willfully
22 create, establish or organize one or more organizations with
23 the intent to conceal or disguise the source of the
24 contribution to:

25 (1) avoid or evade the contribution limits in

1 the Campaign Reporting Act; or

2 (2) avoid a reporting requirement under the
3 Campaign Reporting Act.

4 C. It is unlawful for an independent expenditure
5 committee to accept a contribution from a tax-exempt
6 organization that does not publicly disclose the sources of its
7 contributions.

8 D. A person who violates any provision of
9 Subsection A or B of this section is subject to civil damages
10 of up to ten times the value of the contribution involved in
11 the transaction. A district attorney or attorney general may
12 institute a civil action to enforce the civil damages provided
13 for in this section, which damages may be in addition to any
14 penalties provided for in the Campaign Reporting Act and may be
15 pursued regardless of whether other actions are taken pursuant
16 to Section 1-19-34.4, 1-19-34.6 or 1-19-35 NMSA 1978."

17 **SECTION 3.** Section 1-19-26 NMSA 1978 (being Laws 1979,
18 Chapter 360, Section 2, as amended by Laws 2009, Chapter 67,
19 Section 1 and by Laws 2009, Chapter 68, Section 2) is amended
20 to read:

21 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
22 Act:

23 [~~A. "advertising campaign" means an advertisement~~
24 ~~or series of advertisements used for a political purpose and~~
25 ~~disseminated to the public either in print, by radio or~~

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1 ~~television broadcast or by any other electronic means,~~
2 ~~including telephonic communications, and may include direct or~~
3 ~~bulk mailings of printed materials;]~~

4 A. "advertisement" means a communication referring
5 to a candidate, ballot measure or election that is published,
6 disseminated, distributed or displayed to the public by print,
7 broadcast, satellite, cable or electronic media, including
8 recorded phone messages, or by printed materials, including
9 mailers, handbills, signs and billboards, and that can
10 reasonably be expected to be seen or heard by at least one
11 thousand persons; but "advertisement" does not include:

12 (1) an internal political communication
13 directed to:

14 (a) the contributors to a qualified
15 political party, political committee, independent expenditure
16 committee or similar enterprise;

17 (b) the officers, management, staff and
18 stockholders of a corporation or similar enterprise; or

19 (c) the members of a labor organization
20 or other membership organization;

21 (2) communications appearing in a news story,
22 commentary or editorial distributed through print, broadcast,
23 satellite, cable or electronic media, unless such
24 communications are sponsored or requested to be published by a
25 candidate, political party, political committee or independent

1 expenditure committee; or

2 (3) nonpartisan voter guides allowed by the
 3 federal Internal Revenue Code of 1986 for Section 501(c)(3)
 4 organizations, nonpartisan get-out-the-vote materials or
 5 announcements of candidate debates or forums;

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

10 C. "ballot measure" means a constitutional
 11 amendment or other question submitted to the voters in an
 12 election;

13 [~~G.~~] D. "bank account" means an account in a
 14 financial institution located in New Mexico;

15 [~~D.~~] E. "campaign committee" means two or more
 16 persons, or an entity, authorized by a candidate to raise,
 17 collect or expend contributions on the candidate's behalf for
 18 the purpose of electing the candidate to office;

19 F. "campaign expenditure" means a payment or
 20 transfer or promise to pay or transfer money or other thing of
 21 value that is made by a campaign committee or by a candidate in
 22 furtherance of the candidate's campaign in an election;

23 [~~E.~~] G. "candidate" means an individual who seeks
 24 or considers an office in an election covered by the Campaign
 25 Reporting Act, including a public official, who either has

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1 filed a declaration of candidacy or nominating petition or:

2 (1) for a non-statewide office, has received
3 contributions or made expenditures of one thousand dollars
4 (\$1,000) or more or authorized another person or campaign
5 committee to receive contributions or make expenditures of one
6 thousand dollars (\$1,000) or more for the purpose of seeking
7 election to the office; or

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

16 [~~F.~~] H. "contribution":

17 (1) means a gift, subscription, loan, advance
18 or deposit of money or other thing of value, including the
19 estimated value of an in-kind contribution that is: [~~made or~~
20 ~~received for a political purpose, including payment of a debt~~
21 ~~incurred in an election campaign, but "contribution"~~]

22 (a) made to a candidate to be used in
23 the candidate's campaign for election to an office covered by
24 the Campaign Reporting Act;

25 (b) made to a campaign committee,

1 political committee or independent expenditure committee;

2 (c) earmarked by the contributor to be
3 used for an independent expenditure;

4 (d) made in response to a solicitation
5 that refers to the independent expenditure to be covered by the
6 report and requests contributions to fund that independent
7 expenditure;

8 (e) deposited in a segregated bank
9 account for the purpose of making independent expenditures; or

10 (f) donated without consideration to a
11 person who makes independent expenditures of three thousand
12 dollars (\$3,000) or more and has chosen not to establish a
13 segregated bank account pursuant to Paragraph (1) of Subsection
14 C of Section 1 of this 2012 act;

15 (2) includes a coordinated expenditure; and

16 (3) does not include the value of services
17 provided without compensation or unreimbursed travel or other
18 personal expenses of individuals who volunteer a portion or all
19 of their time on behalf of a candidate or political committee,
20 nor does it include the administrative or solicitation expenses
21 of a political committee [~~that are paid by an organization that~~
22 ~~sponsors the committee];~~

23 I. "coordinated expenditure":

24 (1) means a payment or transfer or promise to
25 pay or transfer money or other thing of value that is made:

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1 (a) by a person other than a candidate
2 or campaign committee;

3 (b) at the direction, suggestion or
4 request of, or in consultation with, a candidate, campaign
5 committee or political committee other than the person making
6 the expenditure, or by any agent or representative of a
7 candidate, campaign committee or political committee other than
8 the person making the expenditure; and

9 (c) in order to pay for an advertisement
10 that: 1) expressly advocates the election or defeat of a
11 clearly identified candidate; 2) is susceptible to no other
12 reasonable interpretation than as an appeal to vote for or
13 against a clearly identified candidate; or 3) refers to a
14 clearly identified candidate, can reasonably be expected to be
15 seen or heard by at least five hundred persons eligible to vote
16 for the candidate and is published or disseminated within
17 thirty days before the first day that voters may cast an
18 absentee ballot in person at the county clerk's office in an
19 election at which the candidate is on the ballot; and

20 (2) is deemed to constitute a contribution
21 from the person who made the expenditure to the candidate,
22 campaign committee or political committee by whom or by whose
23 agent or representative the expenditure was directed, suggested
24 or requested or in consultation with whom or with whose agent
25 or representative the expenditure was made;

1 ~~[G.]~~ J. "deliver" or "delivery" means to deliver by
 2 certified or registered mail, telecopier, electronic
 3 transmission or facsimile or by personal service;

4 ~~[H.]~~ K. "election" means any primary, general or
 5 statewide special election in New Mexico and includes county
 6 and judicial retention elections but excludes municipal, school
 7 board and special district elections;

8 ~~[I.]~~ L. "election year" means an even-numbered year
 9 in which an election covered by the Campaign Reporting Act is
 10 held;

11 ~~[J.]~~ M. "expenditure" means a ~~[payment, transfer or~~
 12 ~~distribution or obligation or promise to pay, transfer or~~
 13 ~~distribute any money or other thing of value for a political~~
 14 ~~purpose, including payment of a debt incurred in an election~~
 15 ~~campaign or pre-primary convention, but does not include the~~
 16 ~~administrative or solicitation expenses of a political~~
 17 ~~committee that are paid by an organization that sponsors the~~
 18 ~~committee]~~ campaign expenditure, a coordinated expenditure or
 19 an independent expenditure;

20 N. "independent expenditure" means a payment or
 21 transfer or promise to pay or transfer money or other thing
 22 having a value of three hundred dollars (\$300) or more that is:

23 (1) made by a person other than a candidate or
 24 campaign committee;

25 (2) not a coordinated expenditure as defined

1 in the Campaign Reporting Act; and

2 (3) made to pay for an advertisement that:

3 (a) expressly advocates the election or
4 defeat of a clearly identified candidate or the passage or
5 defeat of a clearly identified ballot measure;

6 (b) is susceptible to no other
7 reasonable interpretation than as an appeal to vote for or
8 against a clearly identified candidate or ballot measure; or

9 (c) refers to a clearly identified
10 candidate or ballot measure, can reasonably be expected to be
11 seen or heard by at least five hundred persons eligible to vote
12 for the candidate or ballot measure and is published or
13 disseminated within thirty days before the first day that
14 voters may cast an absentee ballot in person at the county
15 clerk's office in an election at which the candidate or ballot
16 measure is on the ballot;

17 O. "independent expenditure committee" means an
18 association of two or more persons, or an entity, whose primary
19 purpose in New Mexico is to make independent expenditures and
20 that has expended two thousand dollars (\$2,000) or more for
21 that purpose in a calendar year;

22 ~~[K.]~~ P. "person" means an individual or entity;

23 ~~[L.]~~ Q. "political committee" means ~~[two or more~~
24 ~~persons, other than members of a candidate's immediate family~~
25 ~~or campaign committee or a husband and wife who make a~~

1 ~~contribution out of a joint account, who are selected,~~
 2 ~~appointed, chosen, associated, organized or operated primarily~~
 3 ~~for a political purpose; and "political committee" includes:~~

4 ~~(1) political parties, political action~~
 5 ~~committees or similar organizations composed of employees or~~
 6 ~~members of any corporation, labor organization, trade or~~
 7 ~~professional association or any other similar group that~~
 8 ~~raises, collects, expends or contributes money or any other~~
 9 ~~thing of value for a political purpose;~~

10 ~~(2) a single individual whose actions~~
 11 ~~represent that the individual is a political committee; and~~

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

16 ~~M. "political purpose" means influencing or~~
 17 ~~attempting to influence an election or pre-primary convention,~~
 18 ~~including a constitutional amendment or other question~~
 19 ~~submitted to the voters] a qualified political party, an~~
 20 ~~association of two or more persons or other entity, whose~~
 21 ~~primary purpose in New Mexico is to make contributions to~~
 22 ~~candidates, campaign committees or political committees or make~~
 23 ~~coordinated expenditures or any combination thereof;~~

24 ~~[N.] R. "prescribed form" means a form or~~
 25 ~~electronic format prepared and prescribed by the secretary of~~

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1 state;

2 [Ø-] S. "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-] T. "public official" means a person elected to
6 an 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-] U. "reporting individual" means every public
10 official, candidate or treasurer of a campaign committee and
11 every treasurer of a political committee or independent
12 expenditure committee."

13 SECTION 4. Section 1-19-26.1 NMSA 1978 (being Laws 1993,
14 Chapter 46, Section 2, as amended) is amended to read:

15 "1-19-26.1. POLITICAL COMMITTEES AND INDEPENDENT
16 EXPENDITURE COMMITTEES--REGISTRATION--DISCLOSURES.--

17 A. It is unlawful for [~~any~~] a political committee
18 [~~that receives, contributes or expends in excess of five~~
19 ~~hundred dollars (\$500) in any calendar year], or an independent
20 expenditure committee that receives or expends in excess of two
21 thousand dollars (\$2,000) in any calendar year, to continue to
22 receive or make [~~any~~] a contribution or expenditure [~~for a~~
23 ~~political purpose~~] unless that [~~political~~] committee appoints
24 and maintains a treasurer and registers with the secretary of
25 state.~~

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1 B. A political committee shall register with the
 2 secretary of state within ten days of [~~receiving, contributing~~
 3 ~~or expending in excess of five hundred dollars (\$500)]
 4 organizing, and an independent expenditure committee shall
 5 register with the secretary of state within ten days of
 6 receiving or expending in excess of two thousand dollars
 7 (\$2,000), by [paying a filing fee of fifty dollars (\$50.00)
 8 ~~and]~~ filing a statement of organization under oath on a
 9 prescribed form showing:~~

10 (1) the full name of the [~~political~~]
 11 committee, which shall fairly and accurately reflect the
 12 identity of the committee, including any sponsoring
 13 organization, and its address;

14 (2) a statement of the purpose for which the
 15 [~~political~~] committee was organized;

16 (3) the name, address and relationship of any
 17 connected or associated organization or entity;

18 (4) the names and addresses of the officers of
 19 the committee; and

20 (5) an identification of the bank account
 21 established pursuant to Section 1-19-34 NMSA 1978 that is used
 22 by the committee for all expenditures or contributions made or
 23 received.

24 C. The provisions of this section do not apply to a
 25 political committee that is located in another state and is

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1 registered with the federal election commission if the
2 political committee reports on federal reporting forms filed
3 with the federal election commission all expenditures for and
4 contributions made to reporting individuals in New Mexico and
5 files with the secretary of state, according to the schedule
6 required for the filing of forms with the federal election
7 commission, a copy of either the full report or the cover sheet
8 and the portions of the federal reporting forms that contain
9 the information on expenditures for and contributions made to
10 reporting individuals in New Mexico."

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

13 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

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

23 B. In an election year, instead of the biannual
24 reports provided for in Subsection A of this section, all
25 reporting individuals, except for public officials who are not

1 candidates in an election that year, shall file reports of all
2 expenditures made and contributions received or, if applicable,
3 statements of no activity, according to the following schedule:

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

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

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

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

19 (5) by 5:00 p.m. on the Thursday before a
20 primary, general or statewide special election, a report of all
21 expenditures made and contributions received by 5:00 p.m. on
22 the Tuesday before the election. Any contribution or pledge to
23 contribute that is received after 5:00 p.m. on the Tuesday
24 before the election and that is for five hundred dollars (\$500)
25 or more in a legislative or non-statewide judicial election, or

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

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

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

24 D. In an election year, a public official who is
25 not a candidate shall file biannual reports of expenditures

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1 made and contributions received or statements of no activity in
2 accordance with the schedule provided for in Subsection A of
3 this section.

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

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

15 (1) there are no outstanding campaign debts;

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

18 (3) the bank account has been closed.

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

25 H. A reporting individual who is a candidate within

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

8 I. Reports required by this section shall be
9 subscribed and sworn to by the candidate or the treasurer of
10 the political committee or independent expenditure committee.

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

21 J. Reports required by this section shall be filed
22 electronically by all reporting individuals.

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

1 SECTION 6. Section 1-19-34 NMSA 1978 (being Laws 1979,
2 Chapter 360, Section 10, as amended) is amended to read:

3 "1-19-34. CANDIDATES--POLITICAL, CAMPAIGN OR INDEPENDENT
4 EXPENDITURE COMMITTEES--TREASURER--BANK ACCOUNT--ANONYMOUS
5 CONTRIBUTIONS--CONTRIBUTIONS FROM SPECIAL EVENTS.--

6 A. [~~It is unlawful for the members of any~~] A
7 political, campaign or independent expenditure committee or any
8 candidate [~~to make any expenditure or solicit or accept any~~
9 ~~contribution for a political purpose unless~~] shall ensure that:

10 (1) a treasurer has been appointed and is
11 constantly maintained; provided, however, when a duly appointed
12 treasurer is unable for any reason to continue as treasurer,
13 the candidate or [~~political~~] committee shall appoint a
14 successor; and provided further that a candidate may serve as
15 [~~his~~] the candidate's own treasurer;

16 (2) all disbursements of money and receipts of
17 contributions are authorized by and through the candidate or
18 treasurer;

19 (3) a separate bank account has been
20 established and all receipts of money contributions and all
21 expenditures of money are deposited in and disbursed from the
22 one bank account maintained by the treasurer in the name of the
23 candidate or [~~political~~] committee; provided that nothing in
24 this section shall prohibit investments from the bank account
25 to earn interest as long as the investments and earnings are

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1 fully reported. All disbursements except for disbursements
2 made from a petty cash fund of one hundred dollars (\$100) or
3 less shall be ~~[by check made payable to the person or entity~~
4 ~~receiving the disbursement and not to "cash" or "bearer"]~~ made
5 in a form such that the date, amount and payee of the
6 transaction are automatically recorded; and

7 (4) the treasurer upon disbursing or receiving
8 money or other things of value immediately enters and
9 thereafter keeps a proper record preserved by ~~[him]~~ the
10 treasurer, including a full, true and itemized statement and
11 account of each sum disbursed or received, the date of such
12 disbursal or receipt, to whom disbursed or from whom received
13 and the object or purpose for which it was disbursed or
14 received.

15 B. No anonymous contributions may be accepted in
16 excess of one hundred dollars (\$100). The aggregate amount of
17 anonymous contributions received by a reporting individual
18 during a primary or general election or a statewide special
19 election shall not exceed two thousand dollars (\$2,000) for
20 statewide races and five hundred dollars (\$500) for all other
21 races.

22 C. Cash contributions received at special events
23 that are unidentifiable as to specific contributor but
24 identifiable as to the special event are not subject to the
25 anonymous contribution limits provided for in this section so

1 long as no single special event raises, after expenses, more
 2 than one thousand dollars (\$1,000) in such cash contributions.
 3 For those contributions, due diligence and best efforts shall
 4 be made to disclose on a special prescribed form the sponsor,
 5 date, place, total amount received, expenses incurred,
 6 estimated number of persons in attendance and other
 7 identifiable factors that describe the special event. For
 8 purposes of this subsection, "special event" includes an event
 9 such as a barbecue or similar fundraiser where tickets costing
 10 fifteen dollars (\$15.00) or less are sold or an event such as a
 11 coffee, tea or similar reception.

12 D. Any contributions received pursuant to this
 13 section in excess of the limits established in Subsections B
 14 and C of this section shall be donated to the state general
 15 fund or an organization to which a federal income tax deduction
 16 would be available under Subparagraph (A) of Paragraph (1) of
 17 Subsection (b) of Section 170 of the Internal Revenue Code of
 18 1986, as amended."

19 **SECTION 7.** Section 1-19-34.1 NMSA 1978 (being Laws 1993,
 20 Chapter 46, Section 12, as amended) is amended to read:

21 "1-19-34.1. LEGISLATIVE SESSION FUNDRAISING
 22 PROHIBITION.--

23 A. It is unlawful during the prohibited period for
 24 a state legislator or a candidate for state legislator, or any
 25 agent on behalf of either, to knowingly solicit a contribution

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1 ~~[for a political purpose]~~. For purposes of this subsection,
2 "prohibited period" means that period beginning January 1 prior
3 to any regular session of the legislature or, in the case of a
4 special session, after the proclamation has been issued, and
5 ending on adjournment of the regular or special session.

6 B. It is unlawful during the prohibited period for
7 the governor, or any agent on ~~[his]~~ the governor's behalf, to
8 knowingly solicit a contribution ~~[for a political purpose]~~.
9 For purposes of this subsection, "prohibited period" means that
10 period beginning January 1 prior to any regular session of the
11 legislature or, in the case of a special session, after the
12 proclamation has been issued, and ending on the twentieth day
13 following the adjournment of the regular or special session."

14 SECTION 8. Section 1-19-34.6 NMSA 1978 (being Laws 1995,
15 Chapter 153, Section 19) is amended to read:

16 "1-19-34.6. CIVIL PENALTIES.--

17 A. If the secretary of state reasonably believes
18 that a person committed, or is about to commit, a violation of
19 the Campaign Reporting Act, the secretary of state shall refer
20 the matter to the attorney general or a district attorney for
21 enforcement.

22 B. The attorney general or district attorney may
23 institute a civil action in district court for any violation of
24 the Campaign Reporting Act or to prevent a violation of that
25 act that involves an unlawful solicitation or the making or

1 acceptance of an unlawful contribution. An action for relief
 2 may include a permanent or temporary injunction, a restraining
 3 order or any other appropriate order, including a civil penalty
 4 of [~~two hundred fifty dollars (\$250)~~] up to two thousand
 5 dollars (\$2,000) for each violation not to exceed [~~five~~
 6 ~~thousand dollars (\$5,000)~~] a total of forty thousand dollars
 7 (\$40,000), and forfeiture of any contribution received as a
 8 result of an unlawful solicitation or unlawful contribution.
 9 Each unlawful solicitation and each unlawful contribution made
 10 or accepted shall be deemed a separate violation of the
 11 Campaign Reporting Act.

12 C. The attorney general or district attorney may
 13 institute a civil action in district court if a violation has
 14 occurred or to prevent a violation of any provision of the
 15 Campaign Reporting Act other than that specified in Subsection
 16 B of this section. Relief may include a permanent or temporary
 17 injunction, a restraining order or any other appropriate order,
 18 including an order for a civil penalty of [~~fifty dollars~~
 19 ~~(\$50.00)~~] up to two thousand dollars (\$2,000) for each
 20 violation not to exceed [~~five thousand dollars (\$5,000)~~] a
 21 total of forty thousand dollars (\$40,000)."

22 SECTION 9. Section 1-19-34.7 NMSA 1978 (being Laws 2009,
 23 Chapter 68, Section 1) is amended to read:

24 "1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES--
 25 POLITICAL COMMITTEES.--

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1 A. The following contributions by the following
2 persons are prohibited:

3 (1) from a person, not including a political
4 committee, to a:

5 (a) candidate for nonstatewide office,
6 including the candidate's campaign committee, in an amount that
7 will cause that person's total contributions to the candidate
8 to exceed two thousand three hundred dollars (\$2,300) [~~during~~
9 ~~the primary election or two thousand three hundred dollars~~
10 ~~(\$2,300) during the general election]~~ in a calendar year;

11 (b) candidate for statewide office,
12 including the candidate's campaign committee, in an amount that
13 will cause that person's total contributions to the candidate
14 to exceed five thousand dollars (\$5,000) [~~during the primary~~
15 ~~election or five thousand dollars (\$5,000) during the general~~
16 ~~election]~~ in a calendar year; or

17 (c) political committee in an amount
18 that will cause that person's total contributions to the
19 political committee to exceed five thousand dollars (\$5,000)
20 [~~during a primary election or five thousand dollars (\$5,000)~~
21 ~~during a general election]~~ in a calendar year; and

22 (2) from a political committee to:

23 (a) a candidate for office, including
24 the candidate's campaign committee, in an amount that will
25 cause the political committee's total contributions to the

1 candidate to exceed five thousand dollars (\$5,000) [~~during the~~
2 ~~primary election or five thousand dollars (\$5,000) during the~~
3 ~~general election]~~ in a calendar year; or

4 (b) another political committee in an
5 amount that will cause that political committee's total
6 contributions to the political committee to exceed five
7 thousand dollars (\$5,000) [~~during a primary election or five~~
8 ~~thousand dollars (\$5,000) during a general election]~~ in a
9 calendar year.

10 B. All contributions made by a person to a
11 candidate, either directly or indirectly, including
12 contributions that are in any way earmarked or otherwise
13 directed through another person to a candidate, shall be
14 treated as contributions from the person to that candidate.

15 C. A person, including a political committee, shall
16 not knowingly accept or solicit a contribution, directly or
17 indirectly, including a contribution earmarked or otherwise
18 directed or coordinated through another person, including a
19 political committee, that violates the contribution limits
20 provided for in this section.

21 D. On the day after each general election, the
22 contribution amounts provided in Subsection A of this section
23 shall be increased by the percentage of the preceding two
24 calendar years' increase of the consumer price index for all
25 urban consumers, United States city average for all items,

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1 published by the United States department of labor. The amount
2 of the increase shall be rounded to the nearest multiple of one
3 hundred dollars (\$100). The secretary of state shall publish
4 by October 1 before each general election the adjusted
5 contribution limits that shall take effect the day after the
6 following general election.

7 E. All contributions in excess of the limits
8 imposed by the provisions of this section shall be deposited in
9 the public election fund upon a finding by the secretary of
10 state that the contribution limits have been exceeded.

11 F. The limitation on contributions to a candidate
12 provided for in Subsection A of this section shall not apply to
13 a candidate's own contribution from the candidate's personal
14 funds to the candidate's own campaign.

15 ~~[G. For the purposes of this section:~~

16 ~~(1) "primary election" means the period~~
17 ~~beginning on the day after the general election for the~~
18 ~~applicable office and ending on the day of the primary for that~~
19 ~~office; and~~

20 ~~(2) "general election" means the period~~
21 ~~beginning on the day after the primary for the applicable~~
22 ~~office and ending on the day of the general election for that~~
23 ~~office.]"~~

24 SECTION 10. Section 1-19-36 NMSA 1978 (being Laws 1979,
25 Chapter 360, Section 12, as amended) is amended to read:

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1 "1-19-36. PENALTIES--~~[CRIMINAL ENFORCEMENT]~~ EXCEPTIONS.--

2 [A. ~~Any person who knowingly and willfully violates~~
3 ~~any provision of the Campaign Reporting Act is guilty of a~~
4 ~~misdemeanor and shall be punished by a fine of not more than~~
5 ~~one thousand dollars (\$1,000) or by imprisonment for not more~~
6 ~~than one year or both.~~

7 B. ~~The Campaign Reporting Act may be enforced by~~
8 ~~the attorney general or the district attorney in the county~~
9 ~~where the candidate resides, where a political committee has~~
10 ~~its principal place of business or where the violation~~
11 ~~occurred]~~ The penalties provided for in Section 1-20-22 NMSA
12 1978 shall not apply to violations of the Campaign Reporting
13 Act."

14 SECTION 11. REPEAL.--Sections 1-19-16 and 1-19-17 NMSA
15 1978 (being Laws 1973, Chapter 401, Sections 1 and 2) are
16 repealed.

17 SECTION 12. EFFECTIVE DATE.--

18 A. The effective date of the provisions of Sections
19 1 through 8, 10 and 11 of this act is March 20, 2012.

20 B. The effective date of the provisions of Section
21 9 of this act is January 1, 2013.

22 SECTION 13. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect immediately.