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SENATE BILL 618

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR VOLUNTARY PUBLIC CAMPAIGN FINANCING OF ELECTIONS FOR GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, STATE AUDITOR, STATE TREASURER, COMMISSIONER OF PUBLIC LANDS, STATE SENATORS, STATE REPRESENTATIVES AND COMMISSIONERS OF THE PUBLIC REGULATION COMMISSION; PRESCRIBING PENALTIES; MAKING AN APPROPRIATION; ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 24 of this act may be cited as the "Public Campaign Finance Option Act".

Section 2. [NEW MATERIAL] LEGISLATIVE FINDINGS AND PURPOSES OF ACT. --

A. The legislature finds that the current system

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1 of privately financed campaigns for election to statewide and
2 legislative offices undermines democracy in New Mexico by:

3 (1) violating the rights of citizens to equal
4 and meaningful participation in the democratic process;

5 (2) fueling the perception of corruption and
6 undermining public confidence in the democratic process and
7 democratic institutions;

8 (3) diminishing elected officials'
9 accountability to their constituents by compelling them to be
10 disproportionately accountable to the major contributors who
11 finance their election campaigns;

12 (4) creating a danger of actual corruption by
13 encouraging elected officials to take money from private
14 interests that are directly affected by governmental actions;
15 and

16 (5) burdening candidates with the incessant
17 rigors of fundraising and thus decreasing the time available
18 to carry out their public responsibilities.

19 B. The purpose of the Public Campaign Finance
20 Option Act is to ensure the vitality of democratic elections
21 in New Mexico to the end that any citizen of this state,
22 regardless of personal wealth or income, can realistically
23 choose to seek and run for public office. It is also the
24 purpose of the Public Campaign Finance Option Act to protect
25 the first amendment rights of the United States constitution

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1 of candidates from being financially overwhelmed by the
2 expenditures of their opponents or by independent
3 expenditures. Accordingly, the Public Campaign Finance Option
4 Act establishes an alternative campaign finance option
5 available to candidates running for office.

6 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
7 Public Campaign Finance Option Act:

8 A. "applicant candidate" means a candidate who is
9 running for a covered office and who is seeking to be a
10 certified candidate in both a primary and general election;

11 B. "certified candidate" means a candidate running
12 for a covered office who chooses to participate in the Public
13 Campaign Finance Option Act and who is certified as a Public
14 Campaign Finance Option Act candidate;

15 C. "commission" means the commission on election
16 practices;

17 D. "contested election" means an election in which
18 there are more candidates for a position than the number to be
19 elected to that position;

20 E. "covered office" means the office of governor,
21 lieutenant governor, secretary of state, attorney general,
22 state auditor, state treasurer, commissioner of public lands,
23 public regulation commissioner, state senator and state
24 representative;

25 F. "election cycle" comprises the primary and

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1 general elections for election to the same term of the same
2 covered office;

3 G. "fund" means the public election fund;

4 H. "noncertified candidate" means a candidate
5 running for a covered office who does not choose to
6 participate in the Public Campaign Finance Option Act and who
7 is not seeking to be a certified candidate;

8 I. "qualifying contribution" means a donation of
9 five dollars (\$5.00) in the form of a check or money order
10 payable to the fund in support of an applicant candidate that
11 is:

12 (1) made by a registered voter who is
13 eligible to vote for the covered office that the applicant
14 candidate is seeking;

15 (2) made during the designated qualifying
16 period and obtained through efforts made with the knowledge
17 and approval of the applicant candidate; and

18 (3) acknowledged by a written receipt that
19 identifies the contributor's name, residential address,
20 occupation and place of employment on forms provided by the
21 commission;

22 J. "qualifying period" means:

23 (1) for applicant candidates for statewide
24 covered offices, the period beginning October 1 immediately
25 preceding the election year and ending at 5:00 p.m. on the

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1 second Tuesday of February of the election year; and

2 (2) for applicant candidates for state
3 senator, state representative and public regulation
4 commissioner, the period beginning October 1 immediately
5 preceding the election year and ending at 5:00 p.m. on the
6 third Tuesday of March of the election year;

7 K. "seed money" means a contribution raised for
8 the primary purpose of enabling applicant candidates to
9 collect qualifying contributions; and

10 L. "small-donor political action committee" refers
11 to a political action committee that limits contributions to
12 one hundred dollars (\$100) per individual contributor per
13 contribution per election cycle.

14 Section 4. [NEW MATERIAL] COMMISSION CREATED--
15 QUALIFICATIONS--TERMS--VACANCIES--REMOVAL.--

16 A. There is created the "commission on election
17 practices" consisting of seven members. By August 1, 1999,
18 the president pro tempore of the senate, speaker of the house
19 of representatives and secretary of state shall each provide a
20 list of nominees from which the governor shall appoint the
21 members with the advice and consent of the senate. No more
22 than three commission members shall have been members of the
23 same political party, nor shall an elected official or
24 candidate for elective office be eligible for commission
25 membership. The initial commission members shall be appointed

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1 by October 1, 1999.

2 B. The initial appointees shall serve four-year
3 terms. Thereafter, two shall be appointed for one-year terms,
4 two shall be appointed for two-year terms and three shall be
5 appointed for three-year terms according to random lot under
6 the supervision of the secretary of state. Thereafter,
7 members shall be appointed to serve staggered four-year terms,
8 but may not serve for more than eight years. Commission
9 members shall be reimbursed pursuant to the Per Diem and
10 Mileage Act.

11 C. A commission member shall immediately be
12 removed from office for missing more than two commission
13 meetings. When a vacancy occurs due to removal or otherwise,
14 the president pro tempore of the senate, speaker of the house
15 of representatives and secretary of state shall each provide a
16 list of nominees from which the governor shall appoint a
17 commission member to fill the position for the unexpired
18 portion of the term. The governor, with the approval of the
19 senate, may remove a member from the commission for good
20 cause.

21 D. The commission shall elect a chairman and any
22 other officers it deems necessary.

23 E. The commission is administratively attached to
24 the office of the secretary of state.

25 Section 5. [NEW MATERIAL] COMMISSION DUTIES AND

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1 POWERS. --

2 A. No later than July 1, 2000, the commission
3 shall adopt and publish rules to ensure effective
4 administration of the Public Campaign Finance Option Act.
5 Rules may be revised as determined by the commission. The
6 rules shall include procedures for obtaining qualifying
7 contributions; certification as a Public Campaign Finance
8 Option Act candidate; addressing circumstances involving
9 special elections, vacancies, recounts, withdrawals or
10 replacements; collection of revenues for the fund;
11 distribution of fund revenue to certified candidates; return
12 of unspent fund disbursements; and compliance with the Public
13 Campaign Finance Option Act.

14 B. The commission shall:

15 (1) prescribe forms for reports, statements,
16 notices and other documents required by the Public Campaign
17 Finance Option Act;

18 (2) prepare and publish instructions setting
19 forth methods of bookkeeping and preservation of records to
20 facilitate compliance with the Public Campaign Finance Option
21 Act and explaining the duties of persons and committees under
22 that act; and

23 (3) produce a yearly report describing the
24 commission's activities; recommendations for changes of law,
25 administration or funding amounts; and accounting for money in

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1 the fund.

2 C. The commission may:

3 (1) subpoena witnesses, compel their
4 attendance and testimony, administer oaths and affirmations,
5 take evidence and require by subpoena the production of any
6 books, papers, records or other items material to the
7 performance of the commission's duties or the exercise of its
8 power; and

9 (2) assess and collect fines for violations
10 of the provisions of the Public Campaign Finance Option Act.

11 Section 6. [NEW MATERIAL] PUBLIC ELECTION FUND CREATED--
12 SOURCE OF FUNDING.--

13 A. There is created in the state treasury the
14 "public election fund" to finance the election campaigns of
15 certified candidates for covered offices, to pay the
16 commission's administrative and enforcement costs and to carry
17 out the provisions of the Public Campaign Finance Option Act
18 and for no other purposes. The state treasurer shall invest
19 the fund as other state funds are invested, and all income
20 derived from the fund shall be credited to the fund.
21 Remaining balances in the fund at the end of a fiscal year
22 shall not revert to the general fund. The commission shall
23 administer the fund.

24 B. Money received from the following sources shall
25 be deposited in the fund:

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1 (1) qualifying contributions that have been
2 submitted to the commission;

3 (2) other unspent Public Campaign Finance
4 Option Act money distributed to a certified candidate who does
5 not remain a candidate through the primary or general election
6 period for which the money was distributed or money that
7 remains unspent by a certified candidate following the date of
8 the primary election or general election for which the money
9 was distributed;

10 (3) money from an optional tax checkoff that
11 dedicates the following amounts of an individual's income tax
12 payment to the fund pursuant to the Income Tax Act, effective
13 beginning in tax year 1999:

14 (a) five dollars (\$5.00) for a single
15 individual, married individuals filing separately and heads of
16 household; or

17 (b) ten dollars (\$10.00) for married
18 individuals filing jointly;

19 (4) voluntary donations made directly to the
20 fund, of which up to two hundred fifty dollars (\$250) for an
21 individual or five hundred dollars (\$500) for a joint return
22 may be tax deductible;

23 (5) unspent seed money that cannot be used
24 for any other purpose; and

25 (6) money appropriated by the legislature.

1 Section 7. [NEW MATERIAL] DETERMINATION OF FUND

2 AMOUNT.-- By January 15, 2001, and every two years thereafter,
3 the commission shall prepare and provide to the legislature a
4 report documenting, evaluating and making recommendations
5 relating to the administration, implementation and enforcement
6 of the Public Campaign Finance Option Act. In its report, the
7 commission shall set out the revenues received to date, the
8 expected needs of the fund during the next election cycle and
9 the amount of the annual appropriation from the legislature
10 that will be required to meet this need.

11 Section 8. [NEW MATERIAL] TERMS OF PARTICIPATION--

12 DECLARATION OF INTENT.--A person choosing to participate in
13 the Public Campaign Finance Option Act shall first file with
14 the commission a declaration of intent to participate in that
15 act as an applicant candidate for a stated covered office.
16 The declaration of intent shall be filed with the commission
17 prior to or during the qualifying period according to forms
18 and procedures developed by the commission. An applicant
19 candidate choosing to participate in the Public Campaign
20 Finance Option Act shall submit a declaration of intent prior
21 to collecting any qualifying contributions. An applicant
22 candidate who files a declaration of intent shall affirm that
23 he has complied with and will continue to comply with that
24 act's contribution and expenditure limits and will comply with
25 all other requirements set forth in that act and rules

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1 promulgated by the commission.

2 Section 9. [NEW MATERIAL] SEED MONEY.-- Applicant
3 candidates shall collect and spend seed money as follows. An
4 applicant candidate may:

5 A. collect seed money from persons, including
6 himself, his spouse, parents, brothers and sisters and small-
7 donor political action committees, but not from corporations,
8 associations or partnerships formed under state law or from
9 labor organizations, in amounts of no more than one hundred
10 dollars (\$100) per donor;

11 B. collect and spend seed money throughout the
12 qualifying period and during the thirty days immediately
13 preceding the qualifying period;

14 C. not collect seed money after certification as a
15 certified candidate; and

16 D. not spend seed money for any purpose after
17 certification and before the general election of the election
18 cycle for which he was certified, but after the election cycle
19 may carry forward to the next election cycle any unspent seed
20 money to be used as seed money. If he is defeated or is
21 elected and decides to not run again as an applicant
22 candidate, any unspent seed money shall be forfeited to the
23 fund.

24 Section 10. [NEW MATERIAL] QUALIFYING CONTRIBUTIONS.--
25 Applicant candidates shall obtain qualifying contributions as

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1 follows:

2 A. the applicant candidate shall obtain qualifying
3 contributions from that number of registered voters that is
4 equal to at least one percent of the total number of
5 registered voters in the district or division within which he
6 is running. The calculation of one percent of registered
7 voters shall be based on the number of registered voters as of
8 the first day of the qualifying period. Applicant candidates
9 may accept qualifying contributions from persons who become
10 registered within the statutory time frame that would enable
11 that person to vote in the primary election. Voters
12 registered as independent are not excluded from making
13 qualifying contributions but shall be registered within the
14 statutory time frame as independent; and

15 B. no payment, gift or anything of value shall be
16 given in exchange for a qualifying contribution.

17 Section 11. [NEW MATERIAL] FILING WITH THE COMMISSION. --
18 Applicant candidates shall file qualifying contributions with
19 the commission during the qualifying period according to
20 procedures developed by the commission.

21 Section 12. [NEW MATERIAL] CERTIFICATION OF
22 CANDIDATES. --

23 A. Upon receipt of a final submittal of qualifying
24 contributions by an applicant candidate, the commission shall
25 determine whether the applicant candidate has:

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1 (1) signed and filed a declaration of intent
2 to participate in the Public Campaign Finance Option Act in
3 accordance with requirements of that act;

4 (2) submitted the appropriate number of
5 qualifying contributions;

6 (3) qualified as a candidate pursuant to
7 other applicable state law;

8 (4) complied with seed money contribution and
9 expenditure restrictions; and

10 (5) otherwise met the requirements for
11 participation in the Public Campaign Finance Option Act.

12 B. The commission shall certify applicant
13 candidates complying with the requirements of this section as
14 certified candidates as soon as possible and no later than
15 three days after final submittal of qualifying contributions.

16 C. Certified candidates shall comply with all
17 requirements of the Public Campaigning Finance Option Act
18 after certification and throughout the primary election and
19 general election periods.

20 Section 13. [NEW MATERIAL] RESTRICTIONS ON CONTRIBUTIONS
21 AND EXPENDITURES FOR APPLICANT CANDIDATES. --After becoming an
22 applicant candidate and prior to certification, applicant
23 candidates shall not accept contributions, except for seed
24 money or qualifying contributions. An incumbent elected prior
25 to 2002 who was not an applicant candidate when elected but

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1 who declares his intent to become an applicant candidate in
2 accordance with the Public Campaign Finance Option Act may
3 transfer on a dollar-for-dollar basis, not to exceed the
4 limits specified in this section, campaign funds legally
5 obtained and accumulated prior to his declaration to
6 participate. An applicant candidate shall limit seed money
7 contributions and expenditures to the following amounts:

8 A. twenty-five thousand dollars (\$25,000) for a
9 candidate for governor;

10 B. ten thousand dollars (\$10,000) for a candidate
11 for lieutenant governor, secretary of state, state auditor,
12 state treasurer or commissioner of public lands;

13 C. fifteen thousand dollars (\$15,000) for a
14 candidate for attorney general;

15 D. two thousand five hundred dollars (\$2,500) for a
16 candidate for public regulation commission;

17 E. two thousand dollars (\$2,000) for a candidate
18 for state senator; and

19 F. one thousand dollars (\$1,000) for a candidate
20 for state representative.

21 Section 14. [NEW MATERIAL] RESTRICTIONS ON CONTRIBUTIONS
22 AND EXPENDITURES FOR CERTIFIED CANDIDATES. -- A certified
23 candidate shall limit campaign expenditures and debts to the
24 money distributed to that candidate from the fund and may not
25 accept any contributions unless specifically authorized by the

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1 commission, provided that a certified candidate may accept
2 in-kind contributions from a political party, up to an
3 aggregate value of ten percent of that candidate's public
4 financing. All money distributed to certified candidates
5 shall be used for campaign-related purposes. The commission
6 shall publish guidelines outlining permissible campaign-
7 related expenditures. A certified candidate shall return to
8 the fund any amount that is unspent and uncommitted at the
9 time that person ceases to be a candidate before a primary or
10 election for which the fund money was distributed. A
11 certified candidate shall return to the fund any amount that
12 was unspent and uncommitted after the date of the primary
13 election or general election for which the fund money was
14 distributed.

15 Section 15. [NEW MATERIAL] TIMING OF FUND
16 DISTRIBUTION. --

17 A. Beginning with the election cycle ending with
18 the general election in 2002, money from the fund may be
19 distributed to certified candidates by any mechanism that is
20 expeditious, ensures accountability and safeguards the
21 integrity of the fund. The commission shall distribute to
22 certified candidates money from the fund in the amounts and at
23 the times specified in Section 16 of the Public Campaign
24 Finance Option Act and Subsections B, C and D of this section.

25 B. For a candidate certified before the second

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1 Tuesday in February of the election year, the commission shall
2 distribute the amount due to that certified candidate for that
3 covered office within three days after certification.

4 C. For a primary election certified candidate, the
5 commission shall distribute the amount due to that certified
6 candidate for that covered office within three days after the
7 second Tuesday in February of the election year, reduced by
8 any amounts previously distributed pursuant to Subsection B of
9 this section.

10 D. Within three days after the primary election,
11 a candidate certified for the general election shall receive
12 one-fourth of the amount due to that certified candidate for
13 that covered office. The remaining amount due to that
14 certified candidate from the fund shall be distributed within
15 one day of the first Monday of August of the election year for
16 which the candidate is certified.

17 Section 16. [NEW MATERIAL] AMOUNT OF FUND
18 DISTRIBUTION. --

19 A. By January 15, 2001, the commission shall
20 determine the amount of money to be distributed to certified
21 candidates for the election cycle ending with the general
22 election in 2002, based on the type of election and the
23 particular covered office for which the candidate is running.

24 B. For contested primary elections, the amount of
25 money to be distributed is equal to eighty percent of the

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1 average amount of campaign expenditures made by all candidates
2 receiving ten percent or greater of votes cast in all
3 contested primary election races for the immediately preceding
4 two primary elections for that covered office.

5 C. For uncontested primary elections, the amount
6 of money to be distributed is equal to eighty percent of the
7 average amount of campaign expenditures made by each candidate
8 during all uncontested primary election races, or for
9 contested races if the amount is lower, for the immediately
10 preceding two primary elections for that covered office.

11 D. For contested general elections, the amount of
12 money to be distributed is equal to eighty percent of the
13 average amount of campaign expenditures made by all candidates
14 receiving thirty percent or greater of votes cast in all
15 contested general election races for the immediately preceding
16 two general elections for that covered office.

17 E. For uncontested general elections, the amount
18 of money to be distributed is equal to one-third of the amount
19 that would be distributed pursuant to Subsection D of this
20 section.

21 F. If the immediately preceding two election
22 cycles do not contain sufficient data for the commission to
23 determine the amount to be distributed for an office, the
24 commission shall use data from the most recent applicable
25 elections for that office. If no applicable elections for

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1 that office contain sufficient data, the commission shall set
2 an amount based on data from elections for comparable offices.

3 G. At least every two years after January 15,
4 2001, the commission shall evaluate and modify as necessary
5 the dollar values originally determined by Subsections B
6 through D and F of this section and shall consider and account
7 for inflation in its evaluations.

8 Section 17. [NEW MATERIAL] REPORTING BY NONCERTIFIED
9 CANDIDATES. --

10 A. All noncertified candidates who have as an
11 opponent a certified candidate shall report to the commission
12 the amount of money spent by that noncertified candidate at
13 the following intervals: forty-five, twenty, ten and five
14 days before the election.

15 B. A person or political committee that intends to
16 make expenditures to influence an election containing a
17 certified candidate shall report to the commission the amount
18 that person or political committee intends to spend to
19 influence the election at the following intervals: forty-five,
20 twenty, ten and five days before the election. Reports
21 required by this section shall be submitted in a manner
22 determined by the commission.

23 Section 18. [NEW MATERIAL] MATCHING FUNDS. --When a
24 campaign, finance or election report or group of reports shows
25 that the sum of a candidate's expenditures or obligations

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1 made, or funds raised or borrowed, whichever is greater, alone
2 or in conjunction with expenditures made independently of the
3 candidate to influence the election on behalf of the candidate
4 or in opposition to a certified candidate, exceeds the
5 distribution amount of Section 16 of the Public Campaign
6 Finance Option Act, the commission shall issue immediately to
7 any opposing certified candidate an additional amount
8 equivalent to the reported excess. Any estimate reported
9 pursuant to Section 17 of that act shall be treated as an
10 expenditure for purposes of release of matching funds pursuant
11 to this section. Total matching funds to a certified
12 candidate in an election are limited to twice the amount
13 originally distributed pursuant to Section 16 of that act.

14 Section 19. [NEW MATERIAL] INDEPENDENT CANDIDATES. --

15 Independent candidates certified before 5:00 p.m. on the
16 second Tuesday of February of the election year shall be
17 eligible for revenues from the fund in the same amounts and at
18 the same time as uncontested primary election certified
19 candidates and general election certified candidates. For
20 independent candidates not certified by this time, the
21 deadline for filing qualifying contributions is 5:00 p.m. on
22 the second Tuesday of July of the election year. Independent
23 candidates certified after the second Tuesday in February
24 shall be eligible for revenues from the fund in the same
25 amounts as general election certified candidates.

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1 Section 20. [NEW MATERIAL] OTHER PROCEDURES. -- For races
2 involving special elections, recounts, vacancies, withdrawals
3 or replacement candidates, the commission shall establish by
4 rule procedures for qualification, certification, disbursement
5 of money and return of unspent money.

6 Section 21. [NEW MATERIAL] CANDIDATE REPORTING
7 REQUIREMENTS-- RETURN OF UNSPENT MONEY-- DISPOSITION OF
8 PROPERTY. --

9 A. All candidates shall report any money
10 collected, all campaign expenditures, obligations and related
11 activities to the commission according to procedures developed
12 by the commission. Upon the filing of a final report for any
13 losing primary election, special election or general election,
14 each certified candidate who has remaining unspent revenues
15 from the fund shall return all the unspent money to the
16 commission. In developing these procedures, the commission
17 shall use existing campaign reporting procedures whenever
18 practicable. The commission shall ensure timely public access
19 to campaign finance data and shall use a commercially
20 available electronic format for providing public access,
21 reporting and storage.

22 B. The commission shall develop procedures for the
23 disposal of property, including equipment and furniture,
24 purchased by certified candidates with money from the fund for
25 use during an election campaign. Once a certified candidate

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1 is no longer in a campaign, that candidate shall dispose of
2 that property in accordance with commission procedures. All
3 money derived from disposal of that property shall be returned
4 to the fund.

5 Section 22. [NEW MATERIAL] APPEALS. --The procedure for
6 challenging a certification decision by the commission is as
7 follows:

8 A. a person aggrieved by a certification decision
9 may appeal to the commission within three days of the
10 certification decision. The appeal shall be in writing and
11 shall set forth the reasons for the appeal;

12 B. within five days after an appeal is properly
13 made, and after due notice is given to the parties in dispute,
14 the commission shall hold a hearing. The appellant has the
15 burden of providing evidence to demonstrate that the
16 commission's decision was improper. The commission shall rule
17 on the appeal within three days after the completion of the
18 hearing;

19 C. the parties in dispute may appeal the decision
20 of the commission by commencing an action in district court of
21 Santa Fe; and

22 D. candidates whose certification is revoked on
23 appeal shall return to the commission any unspent money
24 distributed from the fund. If the commission or court finds
25 that an appeal was made frivolously or to result in delay or

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1 hardship, the commission or court may sanction the moving
2 party by requiring the party to pay costs of the commission,
3 court and opposing parties.

4 Section 23. [NEW MATERIAL] LIMITATION ON CONTRIBUTIONS
5 TO CANDIDATES-- VIOLATIONS. --

6 A. No natural person shall contribute to a
7 nonapplicant or noncertified candidate money or other
8 contributions in an election in excess of two hundred fifty
9 dollars (\$250) for a state legislative office or five hundred
10 dollars (\$500) for a nonfederal statewide or public regulation
11 commission office, for that election. A candidate for state
12 legislative office shall not solicit or accept from a natural
13 person money or other contributions in excess of two hundred
14 fifty dollars (\$250) in an election, nor shall a candidate for
15 a nonfederal statewide or public regulation commission office
16 solicit or accept from a natural person money or other
17 contributions in excess of five hundred dollars (\$500) in an
18 election.

19 B. Notwithstanding the provisions of Subsection A
20 of this section, a nonapplicant or non-certified candidate may
21 make a contribution to his own campaign or to his treasurer of
22 any amount of money in an election.

23 C. No small-donor political action committee or
24 political party shall contribute to a nonapplicant or
25 noncertified candidate in an election in excess of one

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1 thousand dollars (\$1,000) for a state legislative office or
2 two thousand dollars (\$2,000) for a nonfederal statewide or a
3 public regulation commission office, for that election, nor
4 shall a nonapplicant or noncertified candidate solicit or
5 accept a contribution from a small-donor political action
6 committee or political party in excess of these limits.

7 D. For the purposes of this section, "election"
8 means a primary election or a general election in which the
9 candidate or small-donor political action committee may be
10 involved without regard to whether the candidate is opposed or
11 unopposed in the election.

12 E. No natural person shall contribute money or
13 other contributions in an election in excess of fifty dollars
14 (\$50.00) to a small-donor political action committee for that
15 election. Non-small-donor political action committees are
16 prohibited from contributing to a candidate running for a
17 covered office. Corporations, associations and partnerships
18 formed under state law and labor organizations are prohibited
19 from contributing to a candidate running for a covered office.

20 F. Expenditures by a person or political committee
21 that expressly advocates for or against a candidate and that
22 are coordinated with a candidate shall be deemed coordinated
23 expenditures. Coordinated expenditures shall be considered
24 contributions to the candidate and shall be reported by the
25 contributor to the candidate who shall report them to the

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1 secretary of state pursuant to the Campaign Reporting Act.
2 Expenditures by a person or political committee that expressly
3 advocates for or against a candidate but that have not been
4 coordinated with a candidate shall be deemed independent
5 expenditures. Independent expenditures made by a person or
6 political committee that in the aggregate for any election for
7 all candidates combined are in excess of five hundred dollars
8 (\$500) shall, in the political message produced by the
9 expenditure, disclose that the advertisement or material is
10 not authorized by any candidate and the full name of the
11 person or political committee that is paying for the
12 advertisement or material. Such independent expenditures
13 shall be reported by the person or political committee to the
14 secretary of state on the Thursday prior to an election and
15 thirty days after an election.

16 G. A person, candidate or political committee that
17 violates the provisions of this section is guilty of a fourth
18 degree felony.

19 Section 24. [NEW MATERIAL] PENALTIES. --

20 A. In addition to other penalties that may be
21 applicable, a person who violates a provision of the Public
22 Campaign Finance Option Act is subject to a civil penalty of
23 up to ten thousand dollars (\$10,000) per violation. In
24 addition to a fine, for good cause shown, a candidate found in
25 violation of that act may be required to return to the fund

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1 all amounts distributed to the candidate from the fund. If
2 the commission makes a determination that a violation of that
3 act has occurred, the commission shall impose a fine or
4 transmit the finding to the attorney general for prosecution.
5 In determining whether a candidate is in violation of the
6 expenditure limits of that act, the commission may consider as
7 a mitigating factor any circumstances out of the candidate's
8 control.

9 B. A person who willfully or knowingly violates
10 the provisions of the Public Campaign Finance Option Act or
11 rules of the commission or knowingly makes a false statement
12 in a report required by that act is guilty of a fourth degree
13 felony and, if certified as a Public Campaign Finance Option
14 Act candidate, must return to the fund all amounts distributed
15 to that candidate.

16 Section 25. A new section of the Tax Administration Act
17 is enacted to read:

18 "[NEW MATERIAL] DISTRIBUTION--PUBLIC ELECTION FUND.--A
19 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
20 made to the public election fund of all amounts designated as
21 contributions to that fund according to the provisions of the
22 Income Tax Act. "

23 Section 26. A new section of the Income Tax Act is
24 enacted to read:

25 "[NEW MATERIAL] OPTIONAL DESIGNATION OF TAX PAYMENT--

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1 PUBLIC ELECTION FUND. --

2 A. Single individuals, married individuals filing
3 separately and heads of household may designate that five
4 dollars (\$5.00) of their income tax payment due be paid into
5 the public election fund. In the case of married individuals
6 filing jointly, the couple may designate that either five
7 dollars (\$5.00) or ten dollars (\$10.00) of the couple's income
8 tax due be paid into the public election fund.

9 B. The secretary shall revise the state income tax
10 form to allow the designation by individual taxpayers of
11 contributions to the public election fund in substantially the
12 following form:

	"YES	NO
14	New Mexico Public Election Fund Contribution--	<input type="checkbox"/> <input type="checkbox"/>
15	Check YES if you want five dollars of your	
16	tax payment to go to the Public Election Fund.	
17	If filing jointly, check YES if your spouse also	
18	wants five dollars to go to the Public Election <input type="checkbox"/> <input type="checkbox"/>	
19	Fund. Checking YES will not change your tax bill	
20	nor will it decrease the amount of your tax refund." "	

21 Section 27. A new section of the Income Tax Act is
22 enacted to read:

23 "[NEW MATERIAL] DEDUCTION--PAYMENTS INTO THE PUBLIC
24 ELECTION FUND.--A taxpayer may claim a deduction from net
25 income for the amount of contributions made to the public

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1 election fund of up to two hundred fifty dollars (\$250) for
2 individuals or five hundred dollars (\$500) for married
3 individuals filing jointly for the taxable year in which the
4 deduction was made. A husband and wife who file separate
5 returns may each claim only one-half of the deduction that
6 would have been allowed on a joint return. Individuals having
7 income both within and without this state shall apportion this
8 deduction in accordance with rules of the secretary. "

9 Section 28. APPROPRIATION. --Twenty-five thousand dollars
10 (\$25,000) is appropriated from the general fund to the public
11 election fund for the purpose of carrying out the
12 administrative duties of the commission on election practices
13 pursuant to the provisions of the Public Campaign Finance
14 Option Act in fiscal year 2000 and subsequent fiscal years.
15 Three million one hundred sixty thousand dollars (\$3,160,000)
16 is appropriated from the general fund to the public election
17 fund for disbursement by the commission on election practices
18 to certified candidates. Any unexpended or unencumbered
19 balance remaining at the end of a fiscal year shall not revert
20 to the general fund.

21 Section 29. DELAYED REPEAL. --This act is repealed
22 effective December 31, 2006.

23 Section 30. SEVERABILITY. --If any part or application of
24 the Public Campaign Finance Option Act is held invalid, the
25 remainder or its application to other situations or persons

1 shall not be affected.

2 Section 31. APPLICABILITY. --The provisions of Sections
3 25 through 27 of this act apply to taxable years beginning on
4 or after January 1, 1999.

5 Section 32. EFFECTIVE DATE. --The effective date of the
6 provisions of this act is July 1, 1999.

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1 FORTY-FOURTH LEGISLATURE

SB 618/a

2 FIRST SESSION, 1999

3
4
5 March 4, 1999

6 Mr. President:

7
8 Your RULES COMMITTEE, to whom has been referred

9
10
11 SENATE BILL 618

12
13 has had it under consideration and reports same with

14 recommendation that it DO PASS, amended as follows:

15
16 1. On page 4, between lines 3 and 4, insert the following
17 new subsections:

18
19 "H. "general election" means the period beginning the
20 day after the primary election and ending on the Tuesday after
21 the first Monday in November of an election year;

22
23 I. "in-kind contribution" means office space and
24 equipment, office materials, vehicles, advertising, labor,
25 consulting services and other necessary goods and services used
in the everyday operations of political campaigns;".

. 125313. 3

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

SRC/SB 618

Page 30

2. Reletter the succeeding subsections accordingly.

3. On page 4, between lines 7 and 8, insert the following new subsection:

"K. "primary election" means the period beginning October 1 immediately preceding an election year and ending the first Tuesday in June of an election year;".

4. Reletter the succeeding subsections accordingly.

5. On page 4, line 12, strike "a registered" and insert in lieu thereof "an eligible".

6. On page 6, lines 11, 12 and 13, strike the sentence beginning with "A" and insert in lieu thereof:

"The commission shall adopt rules outlining the duties and responsibilities of the commissioners and establishing grounds for removal.".

7. On page 7, line 8, after "involving" insert "the financing of".

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FORTY-FOURTH LEGISLATURE
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8. On page 7, lines 9 and 10, strike ", vacancies, recounts, withdrawals or replacements".

9. On page 12, line 3, after "of" strike the remainder of the line and all of lines 4 through 14 and insert in lieu thereof:

"individuals that is equal to at least one percent of the total number of the voting age population in the district or division within which he is running, as of the first day of the qualifying period. The calculation of one percent of the voting age population shall be based on the most recent census figures for the decennial, mid-decennial or yearly certified census; and".

10. On page 15, line 1, strike "commission" and insert in lieu thereof "Public Campaign Finance Option Act".

11. On page 18, line 22, before the period insert "and in accordance with the Campaign Reporting Act".

12. On page 18, line 25, strike "or" and insert in lieu thereof

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"and".

13. On page 19, line 1, strike the second "or" and insert in lieu thereof "and".

14. On page 19, line 8, strike "Any" and insert in lieu thereof "An".

15. On page 19, line 14, strike "INDEPENDENT" and insert in lieu thereof "UNAFFILIATED".

16. On page 19, line 15, strike "Independent" and insert in lieu thereof "Unaffiliated" and after "candidates" insert "and candidates who declined to declare a party affiliation who are".

17. On page 19, line 20, strike "independent" **and insert in lieu thereof "unaffiliated" and after "candidates" insert "and candidates who declined to declare a party affiliation who are".**

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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18. On page 19, line 22, **strike "Independent"** and insert
in lieu thereof "Unaffiliated".

19. On page 19, line 23, after "**candidates**" insert "**and
candidates who declined to declare a party affiliation who are**".

20. On page 20, lines 2 and 3, strike "recounts, vacancies,
withdrawals or replacement candidates,".

21. On page 21, between lines 4 and 5, insert the
following new subsection:

"C. The commission shall develop procedures for the
provisions of this section in accordance with the Campaign
Reporting Act.".

22. On page 21, line 24, after the period insert the
subsection designation "E.".

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

. 125313. 3

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Gloria Howes, Co-Chair

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

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Yes: 5

No: 0

Excused: Adai r, Campos, Gorham

Absent: None

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3 FORTY- FOURTH LEGISLATURE

4 FIRST SESSION, 1999

SB 618/a

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8 March 14, 1999

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10
11 Mr. President:

12
13 Your JUDICIARY COMMITTEE, to whom has been referred

14
15 SENATE BILL 618, as amended

16
17
18 has had it under consideration and reports same with

19 recommendation that it DO PASS, amended as follows:

20
21 1. On page 18, lines 15 and 16, strike "intends to make"
22 and insert in lieu thereof "makes".

23
24 2. On page 18, line 16, strike "to influence an election

25 . 125313. 3

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FIRST SESSION, 1999

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SJC/SB 618

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containing" and insert in lieu thereof "or obligates funds in excess of five hundred dollars (\$500) to expressly advocate for or against a candidate in an election contest that includes".

3. On page 18, strike all of line 18 and on line 19 strike "influence the election" and insert in lieu thereof "of the expenditures and obligations".

4. On page 19, line 2, after "expenditures" strike the remainder of the line, strike line 3 and strike line 4 through "to" and insert in lieu thereof "and obligations made to expressly advocate the election of the candidate or oppose the election of".,

and thence referred to the **FINANCE COMMITTEE**.

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Respectfully submitted,

Michael S. Sanchez, Chair man

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 4 For 1 Against

Yes: 4

No: Payne

Excused: Aragon, Davi s, Lopez

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FIRST SESSION, 1999

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Absent: None

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