SENATE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CAMPAIGN FINANCE; REQUIRING REPORTING OF INDEPENDENT EXPENDITURES; REDEFINING "POLITICAL COMMITTEE"; DEFINING "ADVERTISEMENT", "BALLOT MEASURE", "CAMPAIGN EXPENDITURE", "COORDINATED EXPENDITURE", "INDEPENDENT EXPENDITURE" AND OTHER TERMS; ADJUSTING CONTRIBUTION AND EXPENDITURE REPORTING REQUIREMENTS, LIMITS AND THRESHOLDS; CHANGING PENALTIES; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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 REQUIREMENTS.--

A. A person who makes an independent expenditure

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not otherwise required to be reported under the Campaign Reporting Act in an amount that exceeds one thousand dollars ($1,000), or in an amount that, when added to the aggregate amount of the independent expenditures made by the same person during the preceding twelve months, exceeds one thousand dollars ($1,000), shall file a report with the secretary of state within:

(1) twenty-four hours after making an independent expenditure of three thousand dollars ($3,000) or more within fourteen days before a primary or general election; or

(2) three days after making any other independent expenditure for which a report is required by this section.

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

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

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

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(3) the source of the contributions used to make the independent expenditure as provided in Subsections C and D of this section.

C. A person who makes independent expenditures totaling three thousand dollars ($3,000) or less that are required to be reported pursuant to this section shall report the name and address of, and amount of contributions made by, each person who:

(1) contributed more than a total of two hundred dollars ($200) in the previous twelve months; and

(2) earmarked, or responded to a solicitation for, contributions to fund independent expenditures.

D. A person who makes independent expenditures totaling more than three thousand dollars ($3,000) that are required to be reported pursuant to this section, in addition to reporting the information specified in Subsection C of this section, shall either:

(1) establish a segregated bank account, consisting only of funds contributed to the account by individuals to be used for making independent expenditures, and report the name and address of, and amount of each contribution made by, each contributor who contributed more than two hundred dollars ($200) to that account in the previous twelve months; or

(2) report the name and address of, and amount

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of each contribution made by, each contributor who contributed more than a total of five thousand dollars ($5,000) to the person in the previous twelve months; provided, however, that a contribution is exempt from reporting pursuant to this paragraph if the contributor requested in writing that the contribution not be used to fund independent or coordinated expenditures or make contributions to a candidate, campaign committee or political committee.

E. Independent expenditures shall be reported electronically using software provided or approved by the secretary of state.

F. Failure of any person to report electronically pursuant to this section is a violation of the Campaign Reporting Act."

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

"[NEW MATERIAL] DISCLAIMERS IN ADVERTISEMENTS.--

A. A person who makes a campaign expenditure, a coordinated expenditure or an independent expenditure for an advertisement in an amount that exceeds three thousand dollars ($3,000), or in an amount that, when added to the aggregate amount of the campaign expenditures, coordinated expenditures and independent expenditures for advertisements made by the same person during the preceding twelve months, exceeds three thousand dollars ($3,000), shall ensure that the advertisement

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contains the name of the candidate, committee or other person who authorized and paid for the advertisement.

B. The requirements of Subsection A of this section do not apply to the following:

(1) bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed; or

(2) skywriting, water towers, wearing apparel or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable.

C. The disclaimer statements required by Subsection A of this section shall be set forth legibly on any advertisement that is disseminated or displayed by visual media. If the advertisement is transmitted by audio media, the statement shall be clearly spoken during the advertisement. If the advertisement is transmitted by audiovisual media, the statement shall be both written legibly and spoken clearly during the advertisement."

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

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

[~~A. "advertising campaign" means an advertisement~~

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~~or series of advertisements used for a political purpose and disseminated to the public either in print, by radio or television broadcast or by any other electronic means, including telephonic communications, and may include direct or bulk mailings of printed materials;~~]

A. "advertisement" means a communication for which an expenditure of at least fifty dollars ($50.00) is made referring to a candidate or ballot measure that is published, disseminated, distributed or displayed to the public by print, broadcast, satellite, cable or electronic media, including recorded phone messages, or by printed materials, including mailers, handbills, signs and billboards, but "advertisement" does not include:

(1) a communication by a membership organization or corporation to its current members, stockholders or executive or administrative personnel;

(2) a communication appearing in a news story or editorial distributed through a print, broadcast, satellite, cable or electronic medium, unless the communication is paid for, or the medium is controlled or owned by, a candidate, campaign committee or political committee;

(3) a candidate debate or forum or a communication announcing a candidate debate or forum paid for on behalf of the debate or forum sponsor; provided that two or more candidates for the same position have been invited to

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participate; or

(4) nonpartisan voter guides allowed by the federal Internal Revenue Code of 1986 for Section 501(c)(3) organizations;

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

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

[~~C.~~] D. "bank account" means an account in a financial institution [~~located in New Mexico~~] chartered and regulated by the United States or a state of the United States;

[~~D.~~] E. "campaign committee" means an association of two or more persons, authorized by a candidate to [~~raise, collect or expend contributions~~] act on the candidate's behalf for the purpose of electing the candidate to office; provided that a candidate may have only one campaign committee;

F. "campaign expenditure" means an expenditure that is made by a campaign committee or by a candidate or public official in support of the candidate's or public official's campaign in an election;

[~~E.~~] G. "candidate" means an individual who seeks or considers an office in an election covered by the Campaign

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Reporting Act, including a public official, who either has filed a declaration of candidacy or nominating petition and has not subsequently filed a statement of withdrawal or:

(1) for a nonstatewide office, has received contributions or made expenditures of more than one thousand dollars ($1,000) [~~or more~~] or authorized another person or campaign committee to receive contributions or make expenditures of more than one thousand dollars ($1,000) [~~or more~~] for the purpose of seeking election to the office; or

(2) for a statewide office, has received contributions or made expenditures of [~~two thousand five hundred dollars ($2,500) or~~] more than three thousand dollars ($3,000) or authorized another person or campaign committee to receive contributions or make expenditures of [~~two thousand five hundred dollars ($2,500) or~~] more than three thousand dollars ($3,000) for the purpose of seeking election to the office or for candidacy exploration purposes in the years prior to the year of the election;

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

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

(2) includes a coordinated expenditure; and

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

I. "coordinated expenditure" means an expenditure of five hundred dollars ($500) or more that is made:

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

(2) at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of such a candidate, campaign committee or political party; and

(3) in order to pay for an advertisement that:

(a) promotes, supports, attacks or opposes a clearly identified candidate; or

(b) refers to a clearly identified candidate and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election at which the candidate is on the ballot;

[~~G.~~] J. "deliver" or "delivery" means to deliver by

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certified or registered mail, telecopier, electronic transmission or facsimile or by personal service;

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

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

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

N. "independent expenditure" means an expenditure that is:

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

(2) not a coordinated expenditure as defined in the Campaign Reporting Act; and

(3) made to pay for an advertisement that:

(a) expressly advocates the election or

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defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot measure;

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

(c) refers to a clearly identified candidate or ballot measure and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election at which the candidate or ballot measure is on the ballot;

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

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

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

~~(2) a single individual whose actions~~

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~~represent that the individual is a political committee; and~~

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

(1) a political party;

(2) an association that consists of two or more persons whose primary purpose is to make contributions to candidates, campaign committees or political committees or make coordinated expenditures or any combination thereof; or

(3) an association that consists of two or more persons; whose primary purpose is to make independent expenditures; and that has received more than three thousand dollars ($3,000) in contributions or made independent expenditures of more than three thousand dollars ($3,000) in the preceding twelve months;

Q. "political party" means an association that has qualified as a political party pursuant to the provisions of Section 1-7-2 NMSA 1978;

[~~M.~~] R. "political purpose" means [~~influencing or attempting to influence an election or pre-primary convention, including a constitutional amendment or other question submitted to the voters~~] for the purpose of supporting or opposing the nomination or election of candidates or the passage of ballot measures;

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[~~N.~~] S. "prescribed form" means a form or electronic format prepared and prescribed by the secretary of state;

[~~O.~~] T. "proper filing officer" means [~~either~~] the secretary of state; [~~or the county clerk as provided in Section 1-19-27 NMSA 1978;~~

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

[~~Q.~~] V. "reporting individual" means every public official, candidate or treasurer of a campaign committee and every treasurer of a political committee."

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

"1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--DISCLOSURES.--

A. It is unlawful for [~~any~~] a political committee [~~that receives, contributes or expends in excess of five hundred dollars ($500) in any calendar year~~] to continue to receive or make any contribution or expenditure for a political purpose [~~unless that political committee appoints and maintains a treasurer and registers with the secretary of state~~] if that committee fails to meet the requirements of Subsections B and C of this section.

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B. A political committee shall [~~register~~] appoint and maintain a treasurer and file a statement of organization with the secretary of state within [~~ten~~] three days of receiving, contributing or expending in excess of [~~five hundred dollars ($500)~~] one thousand dollars ($1,000) by paying a filing fee of fifty dollars ($50.00) and filing a statement of organization.

C. A statement of organization required by Subsection B of this section shall be made under oath on a prescribed form showing:

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

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

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

~~(4)~~] (3) the names and addresses of the officers of the committee; and

[~~(5)~~] (4) an identification of [~~the~~] any bank account used by the committee [~~for all expenditures or~~] to receive or make contributions [~~made or received~~] or make expenditures.

[~~C.~~] D. The provisions of this section do not apply

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to a political committee that [~~is located in another state and~~] is registered with the federal election commission if the political committee reports on federal reporting forms filed with the federal election commission all expenditures for and contributions made to reporting individuals in New Mexico not otherwise reported and files with the secretary of state, according to the schedule required for the filing of forms with the federal election commission, a copy of either the full report or the cover sheet and the portions of the federal reporting forms that contain the information on expenditures for and contributions made to reporting individuals in New Mexico."

SECTION 5. Section 1-19-27 NMSA 1978 (being Laws 1979, Chapter 360, Section 3, as amended) is amended to read:

"1-19-27. REPORTS REQUIRED--[~~PROPER FILING OFFICER~~] ELECTRONIC REPORTING SYSTEM.--

[~~A. Except for those candidates and public officals who file a statement of no activity, all reporting individuals shall file with the proper filing officer a report of expenditures and contributions on a prescribed form.~~

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

~~C. The proper filing officer for filing reports of expenditures and contributions or statements of no activity is~~

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~~the secretary of state for all candidates and public officials.~~]

A. All reporting individuals shall file with the secretary of state reports of expenditures and contributions and statements of no activity when required by the Campaign Reporting Act on forms prescribed by the secretary of state.

[~~D.~~] B. The secretary of state shall develop or contract for services to develop an electronic reporting system for receiving and for public inspection of reports of expenditures and contributions and statements of no activity to the Campaign Reporting Act. The electronic reporting system shall:

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

(2) provide for encrypted transmissions."

SECTION 6. 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.~~] midnight on the second Monday in April and October a report of all expenditures made and contributions received on or before the first Monday in those months and not previously reported. The report shall be filed biannually until the [~~reporting individual's bank account has been closed~~

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~~and the other~~] provisions specified in Subsection F, G or H of this section have been satisfied.

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

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

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

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

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

(5) by [~~5:00 p.m.~~] midnight on the Thursday

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before a primary or general [~~or statewide special~~] election, a report of all expenditures made and contributions received by 5:00 p.m. on the Tuesday before the election and not previously reported. Any contribution or pledge to contribute that is made or received after 5:00 p.m. on the Tuesday before the election and that is for [~~five hundred dollars ($500) or~~] more than one thousand dollars ($1,000) in a legislative or nonstatewide judicial election, or [~~two thousand five hundred dollars ($2,500) or~~] more than three thousand dollars ($3,000) in a statewide election, shall be reported to the proper filing officer either in a supplemental report on a prescribed form within twenty-four hours of receipt or in the report to be filed by [~~5:00 p.m.~~] midnight on the Thursday before a primary or general [~~or statewide special~~] election, except that any such contribution or pledge to contribute that is received after 5:00 p.m. on the Friday before the election may be reported by 12:00 noon on the Monday before the election; [~~and~~]

(6) by the earlier of midnight on the Thursday before a primary or general election, or within twenty-four hours of the independent expenditure, a report of each independent expenditure made after 5:00 p.m. on the Tuesday before the election that is for more than one thousand dollars ($1,000) in a legislative or nonstatewide judicial election or more than three thousand dollars ($3,000) in a statewide election. Such expenditures shall be reported to the proper

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filing officer either in a supplemental report on a prescribed form within twenty-four hours of being made or in the report to be filed by midnight on the Thursday before a primary or general election, except that any such expenditure that is made after 5:00 p.m. on the Friday before the election may be reported by 12:00 noon on the Monday before the election;

[~~(6)~~] (7) by [~~5:00 p.m.~~] midnight on the thirtieth day after a primary [~~general or statewide special~~] election, a report by all reporting individuals, except those individuals that become candidates after the primary election, of all expenditures made and contributions made or received on or before the twenty-fifth day after the primary election and not previously reported; and

(8) by midnight on the thirtieth day after a general election, a report of all expenditures made and contributions made or received on or before the twenty-fifth day after the general election and not previously reported.

C. If a candidate, political committee, campaign committee or public official has not received any contributions and has not made any expenditures since the candidate's, committee's or official's last report was filed with the proper filing officer, the candidate, committee or official shall only be required to file a statement of no activity, which shall not be required to be notarized, in lieu of a full report when that report would otherwise be due and shall not be required to file

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a full report until the next required filing date occurring after an expenditure is made or a contribution is received.

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

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

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

(1) there are no outstanding campaign debts;

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

(3) the bank account has been closed.

G. Each treasurer of a political committee shall file a report of expenditures and contributions pursuant to the

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filing schedules set forth in this section until the treasurer files a report that affirms that the committee has dissolved or no longer exists and that its bank account has been closed.

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

I. Reports required by this section shall be subscribed and sworn to by the candidate or the treasurer of the political committee <u>or, in the case of candidates for judicial office, by the treasurer of the candidate's campaign committee</u>. A report filed electronically shall be electronically authenticated by the candidate or the treasurer of the [~~political~~] committee using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. For the purposes of the Campaign Reporting Act, a report that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the candidate or the treasurer of the [~~political~~] committee who was required to file the report.

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

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

SECTION 7. Section 1-19-31 NMSA 1978 (being Laws 1979, Chapter 360, Section 7, as amended) is amended to read:

"1-19-31. CONTENTS OF REPORT.--[~~A.~~] Each required report of expenditures and contributions shall be typed or printed legibly, or on a computer disc or format approved by the secretary of state, and shall include:

[~~(1)~~] A. the name and address of the person or entity to whom an expenditure was made or from whom a contribution was received, except as provided for anonymous contributions or contributions received from special events as provided in Section 1-19-34 NMSA 1978; provided that for contributors, the name of the entity or the first and last names of any individual shall be the full name of the entity or individual, and initials only shall not constitute a full name unless that is the complete legal name;

[~~(2)~~] B. the occupation [~~or~~], name and type of business, as applicable, of any [~~person~~] individual or entity making contributions of two hundred fifty dollars ($250) or more in the aggregate per election;

[~~(3)~~] C. the amount of the expenditure or

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contribution or value thereof;

[~~(4)~~] D. the purpose of the expenditure; [~~and~~

~~(5)~~] E. the date that the expenditure was made or the contribution was made or received;

[~~B. Each report shall contain an~~]

F. the opening and closing cash balance for the bank account maintained by the reporting individual during the reporting period and the name of the financial institution; and

[~~C. Each report shall specify the~~]

G. the amount of each unpaid debt and the identity of the person to whom the debt is owed."

SECTION 8. Section 1-19-34 NMSA 1978 (being Laws 1979, Chapter 360, Section 10, as amended) is amended to read:

"1-19-34. CANDIDATES--POLITICAL OR CAMPAIGN COMMITTEES--TREASURER--BANK ACCOUNT--ANONYMOUS CONTRIBUTIONS--CONTRIBUTIONS FROM SPECIAL EVENTS.--

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

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

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the candidate's own treasurer;

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

(3) a separate bank account has been established and all receipts of money contributions are deposited in and all expenditures of money are [~~deposited in and~~] disbursed from [~~the~~] one or more bank [~~account~~] accounts maintained by the treasurer in the name of the candidate or [~~political~~] committee; provided that nothing in this section shall prohibit investments from [~~the~~] such bank account to earn interest as long as the investments and earnings are fully reported. All disbursements except for disbursements made from a petty cash fund of one hundred dollars ($100) or less shall be made in a form such that the date, amount and payee of the transaction are automatically recorded or by check made payable to the person or entity receiving the disbursement and not to "cash" or "bearer"; and

(4) the treasurer, upon disbursing or receiving money or other things of value, immediately enters and thereafter keeps a proper record preserved by the treasurer, including a full, true and itemized statement and account of each sum disbursed or received, the date of such disbursal or receipt, to whom disbursed or from whom received and the object or purpose for which it was disbursed or

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received.

B. No anonymous contributions may be accepted [~~in excess of~~] for more than one hundred dollars ($100). The aggregate amount of anonymous contributions received by a reporting individual during a primary or general election or a statewide special election shall not [~~exceed two thousand dollars ($2,000)~~] be more than three thousand dollars ($3,000) for statewide races and [~~five hundred dollars ($500)~~] one thousand dollars ($1,000) for all other races.

C. Cash contributions received at special events that are unidentifiable as to specific contributor but identifiable as to the special event are not subject to the anonymous contribution limits provided for in this section so long as no single special event raises, after expenses, more than one thousand dollars ($1,000) in such cash contributions. For those contributions, due diligence and best efforts shall be made to disclose on a special prescribed form the sponsor, date, place, total amount received, expenses incurred, estimated number of persons in attendance and other identifiable factors that describe the special event. For purposes of this subsection, "special event" includes an event such as a barbecue or similar fundraiser where tickets costing [~~fifteen dollars ($15.00)~~] twenty-five dollars ($25.00) or less are sold or an event such as a coffee, tea or similar reception; provided that no person shall contribute more than

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twenty-five dollars ($25.00) in cash at a special event.

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

SECTION 9. Section 1-19-34.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 12, as amended) is amended to read:

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

A. It is unlawful during the prohibited period for a state legislator or a candidate for state legislator, or any agent on behalf of either, to knowingly solicit a contribution for a political purpose. For purposes of this subsection, "prohibited period" means that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on adjournment of the regular or special session.

B. It is unlawful during the prohibited period for the governor, or any agent on [~~his~~] the governor's behalf, to knowingly solicit a contribution for a political purpose. For purposes of this subsection, "prohibited period" means that period beginning January 1 prior to any regular session of the

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legislature or, in the case of a special session, after the proclamation has been issued, and ending on the twentieth day following the adjournment of the regular or special session."

SECTION 10. Section 1-19-34.3 NMSA 1978 (being Laws 1993, Chapter 46, Section 14, as amended) is amended to read:

"1-19-34.3. CONTRIBUTIONS IN ONE NAME GIVEN FOR ANOTHER PROHIBITED--CONCEALING SOURCE OF CONTRIBUTIONS USED FOR INDEPENDENT EXPENDITURES.--

A. It is unlawful for a person to make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

B. No person may make contributions or expenditures to conceal the names of persons who are the true source of funds used to make independent expenditures."

SECTION 11. Section 1-19-34.6 NMSA 1978 (being Laws 1995, Chapter 153, Section 19) is amended to read:

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

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

B. With or without a referral from the secretary of state, the attorney general or district attorney may institute

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a civil action in district court for any violation of the Campaign Reporting Act or to prevent a violation of that act that involves an unlawful solicitation or the making or acceptance of an unlawful contribution. An action for relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of [~~two hundred fifty dollars ($250)~~] up to one thousand dollars ($1,000) for each violation not to exceed [~~five thousand dollars ($5,000)~~] a total of twenty thousand dollars ($20,000), and forfeiture of any contribution received as a result of an unlawful solicitation or unlawful contribution. Each unlawful solicitation and each unlawful contribution made or accepted shall be deemed a separate violation of the Campaign Reporting Act.

C. With or without a referral from the secretary of state, the attorney general or district attorney may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Campaign Reporting Act other than that specified in Subsection B of this section. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of [~~fifty dollars ($50.00)~~] up to one thousand dollars ($1,000) for each violation not to exceed [~~five thousand dollars ($5,000)~~] a total of twenty thousand dollars ($20,000)."

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SECTION 12. Section 1-19-34.7 NMSA 1978 (being Laws 2009, Chapter 68, Section 1) is amended to read:

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

A. [~~The following contributions by the following persons are prohibited:~~

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

~~(a) candidate for nonstatewide office, including the candidate's campaign committee, in an amount that will cause that person's total contributions to the candidate to exceed two thousand three hundred dollars ($2,300) during the primary election or two thousand three hundred dollars ($2,300) during the general election;~~

~~(b) candidate for statewide office, including the candidate's campaign committee, in an amount that will cause that person's total contributions to the candidate to exceed five thousand dollars ($5,000) during the primary election or five thousand dollars ($5,000) during the general election; or~~

~~(c) political committee in an amount that will cause that person's total contributions to the political committee to exceed five thousand dollars ($5,000) during a primary election or five thousand dollars ($5,000) during a general election; and~~

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~~(2) from a political committee to:~~

~~(a) a candidate for office, including the candidate's campaign committee, in an amount that will cause the political committee's total contributions to the candidate to exceed five thousand dollars ($5,000) during the primary election or five thousand dollars ($5,000) during the general election; or~~

~~(b) another political committee in an amount that will cause that political committee's total contributions to the political committee to exceed five thousand dollars ($5,000) during a primary election or five thousand dollars ($5,000) during a general election.~~] Except as provided in Subsections F and G of this section, a person, including a political committee, shall not make a contribution to a candidate, including the candidate's campaign committee, or to a political committee in an amount that will cause that person's total contributions to the candidate or political committee to exceed five thousand dollars ($5,000) during a primary election cycle or five thousand dollars ($5,000) during a general election cycle.

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

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

D. On the day after each general election, the contribution amounts provided in Subsection A of this section shall be increased by the percentage of the preceding two calendar [~~year's~~] years' increase of the consumer price index for all urban consumers, United States city average for all items, published by the United States department of labor. The amount of the increase shall be rounded to the nearest multiple of one hundred dollars ($100). The secretary of state shall publish by October 1 before each general election the adjusted contribution limits that shall take effect the day after the following general election.

E. All contributions in excess of the limits imposed by the provisions of this section shall be deposited in the public election fund upon a finding by [~~the secretary of state~~] a district court that the contribution limits have been exceeded.

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

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funds to the candidate's own campaign.

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

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

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

G. The limitations on contributions to political committees provided for in Subsection A of this section shall not apply to a political committee that makes only independent expenditures or to any contribution to a political committee that is deposited in a segregated bank account that may only be used to make independent expenditures."

SECTION 13. Section 1-19-36 NMSA 1978 (being Laws 1979, Chapter 360, Section 12, as amended) is amended to read:

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

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

B. The Campaign Reporting Act may be enforced by

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the attorney general or the district attorney in the county where the candidate resides, where a political committee has its principal place of business or where the violation occurred."

SECTION 14. TEMPORARY PROVISION.--The secretary of state, in consultation with the attorney general, shall promulgate rules to implement the amendatory provisions of this act by December 31, 2016.

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

SECTION 16. EFFECTIVE DATE.--The effective date of the provisions of this act is November 9, 2016.

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