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HOUSE BILL 193

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO ELECTIONS; AMENDING THE CAMPAIGN REPORTING ACT;  
PROVIDING FOR ELECTRONIC REPORTING AND RETRIEVAL OF  
INFORMATION; MAKING AN APPROPRIATION.

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

Section 1. Section 1-19-26 NMSA 1978 (being Laws 1979,  
Chapter 360, Section 2, as amended) is amended to read:

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

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

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

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

D. "campaign committee" means two or more persons  
authorized by a candidate to raise, collect or expend  
contributions on the candidate's behalf for the purpose of  
electing him to office;

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

(1) for a non-statewide office, has received  
contributions or made expenditures of one thousand dollars  
(\$1,000) or more or authorized another person or campaign  
committee to receive contributions or make expenditures of 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 or authorized another person  
or campaign committee to receive contributions or make  
expenditures of two thousand five hundred dollars (\$2,500) or

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1 more for the purpose of seeking election to the office or for  
2 candidacy exploration purposes in the years prior to the year  
3 of the election;

4 F. "contribution" means a gift, subscription,  
5 loan, advance or deposit of ~~[any]~~ money or other thing of  
6 value, including the estimated value of an in-kind  
7 contribution, that is made or received for a political  
8 purpose, including payment of a debt incurred in an election  
9 campaign, but does not include the value of services provided  
10 without compensation or unreimbursed travel or other personal  
11 expenses of individuals who volunteer a portion or all of  
12 their time on behalf of a candidate or political committee,  
13 nor does it include the administrative or solicitation  
14 expenses of a political committee that are paid by an  
15 organization that sponsors the committee;

16 G. "deliver" or "delivery" means to deliver by  
17 certified or registered mail, ~~[by]~~ telecopier, electronic  
18 ~~[mail]~~ transmission or facsimile or by personal service;

19 H. "election" means any primary, general or  
20 statewide special election in New Mexico and includes county  
21 and judicial retention elections but excludes municipal,  
22 school board and special district elections;

23 I. "election year" means an even-numbered year in  
24 which an election covered by the Campaign Reporting Act is  
25 held;

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J. "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;

K. "person" means an individual or entity;

L. "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 political action committees or similar organizations composed of employees or members of ~~[any]~~ a 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; provided that a political committee includes a single individual who by his actions represents that he is a political committee and a person or an organization of two or more persons that within one calendar year expends funds in excess of two thousand dollars (\$2,000) to conduct an

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advertising campaign for a political purpose;

M. "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;

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

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

P. "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;

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

R. "statement of exception" or "statement" means the prescribed form subscribed and sworn to by a candidate to indicate that the candidate does not intend to raise or expend the minimum amount required for the filing of a report of expenditures and contributions as provided in Section 1-19-33 NMSA 1978. "

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

. 139580. 2

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

2 A. Except for those candidates who file a  
3 statement of exception in an election year pursuant to Section  
4 1-19-33 NMSA 1978, all reporting individuals shall annually  
5 file with the proper filing officer a report of expenditures  
6 and contributions on a prescribed form. The report shall be  
7 filed on the second Monday in May pursuant to the provisions  
8 of Subsection A of Section 1-19-29 NMSA 1978.

9 B. The proper filing officer for filing reports of  
10 expenditures and contributions or statements of exception is  
11 the secretary of state for a public official in or a candidate  
12 seeking any of the following offices:

13 (1) a statewide elective office;

14 (2) an elected judicial office [~~in the~~  
15 ~~judicial department~~], except a magistrate; [~~and~~]

16 (3) an office, other than a legislative  
17 office, representing a district composed of more than one  
18 county; or

19 (4) a legislative office, except that,  
20 through December 31, 2003, legislators representing or  
21 candidates seeking to represent multicounty districts may file  
22 reports of expenditures and contributions or statements of  
23 exception with either the secretary of state or with the  
24 county clerk in the county in which they reside.

25 C. The proper filing officer for filing reports of

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1 expenditures and contributions or statements of exception is  
2 the county clerk for a public official in or a candidate  
3 seeking any of the following offices:

- 4 (1) an elective county office;
- 5 (2) a magistrate; ~~and~~ or
- 6 (3) through December 31, 2003, a state  
7 legislative office elected from a district located wholly  
8 within one county.

9 D. The proper filing officer for filing reports of  
10 expenditures and contributions by a political committee is the  
11 secretary of state.

12 E. The secretary of state shall develop or  
13 contract for services to develop an electronic reporting  
14 system for receiving and for public inspection of reports of  
15 expenditures and contributions and statements of exception to  
16 the Campaign Reporting Act. The electronic reporting system  
17 shall:

- 18 (1) enable a person to file reports online by  
19 filling out forms on the secretary of state's web site; and
- 20 (2) provide for encrypted transmissions."

21 Section 3. Section 1-19-29 NMSA 1978 (being Laws 1993,  
22 Chapter 46, Section 5, as amended by Laws 1997, Chapter 12,  
23 Section 1 and also by Laws 1997, Chapter 112, Section 3) is  
24 amended to read:

25 "1-19-29. TIME AND PLACE OF FILING REPORTS. --

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1           A. Annually, all reporting individuals shall file  
2 with the proper filing officer by 5:00 p.m. on the second  
3 Monday in May a report of all expenditures made and  
4 contributions received on or before the first Monday in May  
5 and not previously reported. The report shall be filed  
6 annually until the reporting individual's bank account has  
7 been closed and the other provisions specified in Subsection E  
8 of this section have been satisfied.

9           B. In an election year, in addition to the May  
10 report provided for in Subsection A of this section, all  
11 reporting individuals, except for persons who file a statement  
12 of exception pursuant to Section 1-19-33 NMSA 1978 and except  
13 for public officials who are not candidates in an election  
14 that year, shall file reports of all expenditures made and  
15 contributions received according to the following schedule:

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

20                   (2) by 5:00 p.m. on the Thursday before a  
21 primary, general or statewide special election, a report of  
22 all expenditures made and contributions received by 5:00 p.m.  
23 on the Tuesday before the election. Any contribution or  
24 pledge to contribute that is received after 5:00 p.m. on the  
25 Tuesday before the election and that is for five hundred

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1 dollars (\$500) or more in a legislative or non-statewide  
2 judicial election, or two thousand five hundred dollars  
3 (\$2,500) or more in a statewide election shall be reported to  
4 the proper filing officer either in a supplemental report on a  
5 prescribed form within twenty-four hours of receipt or in the  
6 report to be filed by 5:00 p.m. on the Thursday before a  
7 primary, general or statewide special election, except that  
8 any such contribution or pledge to contribute that is received  
9 after 5:00 p.m. on the Friday before the election may be  
10 reported by 12:00 noon on the Monday before the election; and  
11 (3) by 5:00 p.m. on the thirtieth day after a  
12 primary, general or statewide special election, a report of  
13 all expenditures made and contributions received on or before  
14 the twenty-fifth day after the election and not previously  
15 reported.

16 C. Notwithstanding the other provisions of this  
17 section, the report due on the thirtieth day after an election  
18 need be the only report filed after the annual May report if  
19 the candidate is not opposed in the election and if the report  
20 includes all expenditures made and contributions received for  
21 that election and not previously reported.

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

25 E. Each reporting individual shall file a report

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1 of expenditures and contributions annually pursuant to the  
2 filing schedule set forth in this section, regardless of  
3 whether any expenditures were made or contributions were  
4 received during the reporting period. Reports shall be  
5 required until the reporting individual delivers a report to  
6 the proper filing officer stating that:

7 (1) there are no outstanding campaign debts;

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

10 (3) the bank account has been closed.

11 F. Each treasurer of a political committee shall  
12 file a report of expenditures and contributions annually  
13 pursuant to the filing schedule set forth in this section  
14 until the treasurer files a report that affirms that the  
15 committee has dissolved or no longer exists and that its bank  
16 account has been closed.

17 G. A reporting individual who is a candidate  
18 within the meaning of the Campaign Reporting Act because of  
19 the amount of contributions he receives or expenditures he  
20 makes and who does not ultimately file a declaration of  
21 candidacy or a nominating petition with the proper filing  
22 officer shall nevertheless file a report, not later than the  
23 second Monday in May for a primary election or the second  
24 Monday in October for a general election, of all contributions  
25 received and expenditures made on or before the first Monday

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1 in May for a primary election or the first Monday in October  
2 for a general election, and not previously reported.

3 H. Reports required by this section shall be filed  
4 electronically beginning January 1, 2004 by all reporting  
5 individuals except those reporting for a magistrate or an  
6 elective county office.

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

11 Section 4. Section 1-19-32 NMSA 1978 (being Laws 1979,  
12 Chapter 360, Section 8, as amended) is amended to read:

13 "1-19-32. INSPECTION OF PUBLIC RECORDS. --

14 A. Each of the following documents is a public  
15 record open to public inspection during regular office hours  
16 in the office in which the document was filed or from which  
17 the document was issued:

- 18 (1) a statement of exception;
- 19 (2) a report of expenditures and  
20 contributions;
- 21 (3) an advisory opinion issued by the  
22 secretary of state;
- 23 (4) a document specified as a public record  
24 in the Campaign Reporting Act; and
- 25 (5) an arbitration decision issued by an

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1 arbitration panel and filed with the secretary of state.

2 B. Each public record described in Subsection A of  
3 this section shall be retained by the state for five years and  
4 may be destroyed five years after the date of filing unless a  
5 legal action or prosecution is pending that requires the  
6 preservation of the public record.

7 C. The secretary of state shall provide for  
8 electronic access to reports of expenditures and contributions  
9 and statements of exception submitted electronically by  
10 reporting individuals. Electronic access shall include access  
11 via the internet and shall be in an easily searchable format."

12 Section 5. APPROPRIATION. -- Three hundred seventy  
13 thousand dollars (\$370,000) is appropriated from the general  
14 fund to the office of the secretary of state for expenditure  
15 in fiscal year 2003 to design and develop an electronic  
16 campaign reporting system. Any unexpended or unencumbered  
17 balance remaining at the end of fiscal year 2003 shall revert  
18 to the general fund.