

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 69

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

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO CAMPAIGN FINANCE; CREATING THE CAMPAIGN FINANCE BUREAU AND CAMPAIGN FINANCE BANK; ALLOWING CANDIDATES, POLITICAL COMMITTEES AND OTHER PERSONS WITH CAMPAIGN ACCOUNTS TO DEPOSIT ALL POLITICAL CONTRIBUTIONS IN THE CAMPAIGN FINANCE BANK; ESTABLISHING THE CAMPAIGN FINANCE BANK BOARD; AUTHORIZING THE CAMPAIGN FINANCE BANK TO IMPOSE FEES AND PROVIDE SERVICES; ALLOWING APPROVAL OF ALL EXPENDITURES FROM A CAMPAIGN FINANCE BANK ACCOUNT; MAKING AN APPROPRIATION.

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] CAMPAIGN FINANCE BANK CREATED--PURPOSE AND LIMITATIONS--GOVERNANCE.--

A. For the purpose of tracking political

underscored material = new
~~[bracketed material] = delete~~

underscoring material = new
~~[bracketed material] = delete~~

1 contributions and expenditures of candidates, political
2 committees and other persons with campaign accounts, the
3 "campaign finance bank" is created in the campaign finance
4 bureau of the office of the secretary of state.

5 B. The campaign finance bank shall be governed by
6 the campaign finance bank board, which shall operate, manage
7 and control the bank, including creation and enforcement of
8 rules for the transaction of the bank's business.

9 C. The bank is not created or organized, and its
10 operations shall not be conducted, for the purpose of making a
11 profit. No part of the revenues or assets of the bank shall
12 benefit, or be distributable to, its board members or other
13 private persons. All revenue generated by the bank shall be
14 used to pay for operations and expenses of the bank and the
15 campaign finance bank board.

16 D. The bank shall not be subject to the supervision
17 or control of any other board, bureau, department or agency of
18 the state except as specifically provided in this 2016 act. No
19 use of the terms "state agency" or "instrumentality" in any
20 other law of the state shall be deemed to refer to the bank
21 unless the bank is specifically referred to in the law. The
22 bank is a governmental instrumentality for purposes of the Tort
23 Claims Act.

24 E. The financial transactions of the bank are
25 limited to those expressly provided for in this 2016 act.

.202348.3

underscored material = new
[bracketed material] = delete

1 F. The bank's principal place of business shall be
2 in Santa Fe, New Mexico."

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

5 "[NEW MATERIAL] CAMPAIGN FINANCE BANK BOARD CREATED--
6 MEMBERSHIP--TERMS--CHAIR AND VICE CHAIR--OFFICERS.--

7 A. The "campaign finance bank board" is created and
8 is administratively attached to the campaign finance bureau of
9 the office of the secretary of state.

10 B. The board shall be composed of four members.
11 The governor, chief justice of the supreme court, president pro
12 tempore of the senate and speaker of the house of
13 representatives shall each appoint one member of the board, who
14 shall be a resident of the state with expertise in banking,
15 lending and finances and who shall not hold other public
16 office. No more than two of the board members shall be from
17 the same political party. The board members shall select one
18 member to serve as chair of the board for a four-year term.
19 The members of the board shall receive no compensation for
20 their services, but they shall be reimbursed for actual and
21 necessary expenses at the same rate and on the same basis as
22 provided for public officers in the Per Diem and Mileage Act.

23 C. Board members shall be appointed for four-year
24 terms. To provide for staggered terms, the members of the
25 board initially appointed, other than the chair, shall serve

.202348.3

underscored material = new
[bracketed material] = delete

1 staggered terms from the date of their appointment as
2 determined by lot as follows:

3 (1) one member for a four-year term;

4 (2) one member for a three-year term; and

5 (3) two members for two-year terms.

6 D. Vacancies shall be filled by the appointing
7 entity for the remainder of the unexpired term. Board members
8 shall be eligible for reappointment.

9 E. The board shall annually elect one of its
10 members as vice chair.

11 F. The board shall appoint and prescribe the duties
12 of a president of the bank and other officers as the board
13 deems necessary. The president and other officers of the bank
14 shall not hold other public office. The members of the board
15 shall not be officers or employees of the bank. The board may
16 employ accountants, financial experts, bankers and such other
17 advisors, consultants and agents as may be necessary in its
18 judgment. The board shall fix the compensation of officers and
19 employees. Officers and employees of the bank are not subject
20 to the Personnel Act."

21 SECTION 3. A new section of the Campaign Reporting Act is
22 enacted to read:

23 "[NEW MATERIAL] POWERS OF THE CAMPAIGN FINANCE BANK
24 BOARD.--The campaign finance bank board shall have all the
25 powers necessary or convenient to carry out and effectuate the

.202348.3

underscored material = new
[bracketed material] = delete

1 banking duties of the campaign finance bureau of the office of
2 secretary of state, including the power to:

3 A. sue and be sued;

4 B. have a seal and alter it at pleasure;

5 C. make and alter bylaws for its organization and
6 internal management;

7 D. fix, revise from time to time, charge and
8 collect fees and other charges in connection with the making of
9 services rendered by the bank;

10 E. make and execute agreements, contracts and other
11 instruments necessary or convenient in the exercise of the
12 powers and functions of the board;

13 F. make, alter or repeal rules addressing its
14 operations, properties and facilities;

15 G. do any and all things necessary to carry out its
16 purposes and exercise the power granted in this 2016 act;
17 provided that the bank shall only accept deposits for
18 candidates, political committees and other persons that have
19 established or maintain campaign accounts pursuant to the
20 Campaign Reporting Act; and

21 H. review and address complaints and inquiries
22 concerning the operations and services of the bank."

23 SECTION 4. A new section of the Campaign Reporting Act is
24 enacted to read:

25 "[NEW MATERIAL] CAMPAIGN FINANCE BANK OPERATIONS.--

.202348.3

underscoring material = new
~~[bracketed material] = delete~~

1 A. The campaign finance bank shall provide banking
2 services to all candidates, political committees and other
3 persons who establish or maintain campaign fund accounts in the
4 bank pursuant to the provisions of the Campaign Reporting Act.

5 B. The bank shall accept contributions on behalf of
6 each candidate, political committee or other person who has an
7 account with the bank and credit each contribution to the
8 appropriate account. The bank shall notify the account holder
9 of each contribution received by the bank that is credited to
10 the account holder's bank account.

11 C. The campaign finance bureau of the office of
12 secretary of state shall evaluate whether each expenditure by a
13 candidate, political committee or other person who has an
14 account with the bank is a legal expenditure of campaign funds
15 in accordance with the provisions of the Campaign Reporting Act
16 and direct the bank not to approve any withdrawal of funds from
17 an account for an expenditure that is not allowed by Section
18 1-19-29.1 NMSA 1978.

19 D. The bank shall make available for inspection by
20 the public the current financial status of each campaign
21 finance bank account established pursuant to the Campaign
22 Reporting Act.

23 E. The bank shall make quarterly reports to the
24 campaign finance bank board of all banking activities,
25 including all deposits and withdrawals from each account

.202348.3

underscoring material = new
~~[bracketed material] = delete~~

1 maintained by the bank."

2 SECTION 5. A new section of Chapter 8, Article 4 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] CAMPAIGN FINANCE BUREAU CREATED.--The
5 "campaign finance bureau" is created in the office of the
6 secretary of state. The bureau, in conjunction with the
7 campaign finance bank board, shall oversee operations of the
8 campaign finance bank. The bureau shall also administer the
9 provisions of the Campaign Reporting Act and the Voter Action
10 Act."

11 SECTION 6. Section 1-19-26 NMSA 1978 (being Laws 1979,
12 Chapter 360, Section 2, as amended by Laws 2009, Chapter 67,
13 Section 1 and by Laws 2009, Chapter 68, Section 2) is amended
14 to read:

15 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
16 Act:

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

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

.202348.3

underscored material = new
[bracketed material] = delete

1 accepts the contribution;

2 C. "bank account" means an account in a financial
3 institution located in New Mexico or the campaign finance bank;

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

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

12 (1) for a nonstatewide office, has received
13 contributions or made expenditures of one thousand dollars
14 (\$1,000) or more or authorized another person or campaign
15 committee to receive contributions or make expenditures of one
16 thousand dollars (\$1,000) or more for the purpose of seeking
17 election to the office; or

18 (2) for a statewide office, has received
19 contributions or made expenditures of two thousand five hundred
20 dollars (\$2,500) or more or authorized another person or
21 campaign committee to receive contributions or make
22 expenditures of two thousand five hundred dollars (\$2,500) or
23 more for the purpose of seeking election to the office or for
24 candidacy exploration purposes in the years prior to the year
25 of the election;

.202348.3

underscoring material = new
~~[bracketed material] = delete~~

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

13 G. "deliver" or "delivery" means to deliver by
14 certified or registered mail, telecopier, electronic
15 transmission or facsimile or by personal service;

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

20 I. "election year" means an even-numbered year in
21 which an election covered by the Campaign Reporting Act is
22 held;

23 J. "expenditure" means a payment, transfer or
24 distribution or obligation or promise to pay, transfer or
25 distribute any money or other thing of value for a political

.202348.3

1 purpose, including payment of a debt incurred in an election
2 campaign or pre-primary convention, but does not include the
3 administrative or solicitation expenses of a political
4 committee that are paid by an organization that sponsors the
5 committee;

6 K. "person" means an individual or entity;

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

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

19 (2) a single individual whose actions
20 represent that the individual is a political committee; and

21 (3) a person or an organization of two or more
22 persons that within one calendar year expends funds in excess
23 of five hundred dollars (\$500) to conduct an advertising
24 campaign for a political purpose;

25 M. "political purpose" means influencing or

underscored material = new
[bracketed material] = delete

1 attempting to influence an election or pre-primary convention,
2 including a constitutional amendment or other question
3 submitted to the voters;

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

6 O. "proper filing officer" means either the
7 secretary of state or the county clerk as provided in Section
8 1-19-27 NMSA 1978;

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

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

16 SECTION 7. Section 1-19-26.1 NMSA 1978 (being Laws 1993,
17 Chapter 46, Section 2, as amended) is amended to read:

18 "1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--
19 DISCLOSURES.--

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

.202348.3

underscored material = new
[bracketed material] = delete

1 B. A political committee shall register with the
2 secretary of state within ten days of receiving, contributing
3 or expending in excess of five hundred dollars (\$500) by paying
4 a filing fee of fifty dollars (\$50.00) and filing a statement
5 of organization under oath on a prescribed form showing:

6 (1) the full name of the political committee,
7 which shall fairly and accurately reflect the identity of the
8 committee, including any sponsoring organization, and its
9 address;

10 (2) a statement of the purpose for which the
11 political committee was organized;

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

14 (4) the names and addresses of the officers of
15 the committee; and

16 (5) an identification of either the bank or
17 the account number of the campaign finance bank account used by
18 the committee for all expenditures or contributions made or
19 received.

20 C. The provisions of this section do not apply to a
21 political committee that is located in another state and is
22 registered with the federal election commission if the
23 political committee reports on federal reporting forms filed
24 with the federal election commission all expenditures for and
25 contributions made to reporting individuals in New Mexico and

.202348.3

underscoring material = new
[bracketed material] = delete

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

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

9 "1-19-34. CANDIDATES--POLITICAL COMMITTEES--TREASURER--
10 BANK ACCOUNT--ANONYMOUS CONTRIBUTIONS--CONTRIBUTIONS FROM
11 SPECIAL EVENTS.--

12 A. It is unlawful for the members of any political
13 committee or any candidate to make any expenditure or solicit
14 or accept any contribution for a political purpose unless:

15 (1) a treasurer has been appointed and is
16 constantly maintained; provided, however, when a duly appointed
17 treasurer is unable for any reason to continue as treasurer,
18 the candidate or political committee shall appoint a successor;
19 and provided further that a candidate may serve as the
20 candidate's own treasurer;

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

24 (3) a separate bank account has been
25 established and all receipts of money contributions and all

.202348.3

underscored material = new
[bracketed material] = delete

1 expenditures of money are deposited in and disbursed from the
2 one bank account maintained by the treasurer in the name of the
3 candidate or political committee; provided that nothing in this
4 section shall prohibit investments from the bank account to
5 earn interest as long as the investments and earnings are fully
6 reported. All disbursements except for disbursements made from
7 a petty cash fund of one hundred dollars (\$100) or less shall
8 be made in a form such that the date, amount and payee of the
9 transaction are automatically recorded or by check made payable
10 to the person or entity receiving the disbursement and not to
11 "cash" or "bearer"; and

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

19 B. Each person that has established an account with
20 the campaign finance bank shall inform potential contributors
21 to make all contributions directly to the campaign finance bank
22 for credit to the person's bank account.

23 [~~B-~~] C. No anonymous contributions may be accepted
24 in excess of one hundred dollars (\$100). The aggregate amount
25 of anonymous contributions received by a reporting individual

.202348.3

underscored material = new
[bracketed material] = delete

1 during a primary or general election or a statewide special
2 election shall not exceed two thousand dollars (\$2,000) for
3 statewide races and five hundred dollars (\$500) for all other
4 races.

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

20 ~~[D-]~~ E. Any contributions received pursuant to this
21 section in excess of the limits established in ~~[Subsections B~~
22 ~~and]~~ Subsection C or D of this section shall be donated to the
23 state general fund or an organization to which a federal income
24 tax deduction would be available under Subparagraph (A) of
25 Paragraph (1) of Subsection (b) of Section 170 of the Internal

.202348.3

1 Revenue Code of 1986, as amended."

2 SECTION 9. APPROPRIATION.--Five hundred thousand dollars
3 (\$500,000) is appropriated from the general fund to the office
4 of secretary of state for expenditure in fiscal year 2017 to
5 carry out the purposes of this act. Any unexpended or
6 unencumbered balance remaining at the end of fiscal year 2017
7 shall revert to the general fund.

8 SECTION 10. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is November 9, 2016.

10 - 16 -
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25