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SENATE BILL 5

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2007

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO ELECTIONS; REQUIRING POLITICAL COMMITTEES THAT MAKE INDEPENDENT EXPENDITURES TO REGISTER AND FILE REPORTS WITH THE SECRETARY OF STATE; PROVIDING ADDITIONAL REPORTING REQUIREMENTS FOR PUBLIC OFFICIALS, CANDIDATES, CAMPAIGN COMMITTEES AND POLITICAL COMMITTEES; LIMITING CAMPAIGN CONTRIBUTIONS TO CANDIDATES FOR STATEWIDE AND DISTRICT OFFICES; PROHIBITING CERTAIN CASH CONTRIBUTIONS; GRANTING SUBPOENA POWER TO THE SECRETARY OF STATE FOR INVESTIGATIONS PURSUANT TO THE CAMPAIGN REPORTING ACT; EXPANDING DEFINITIONS; PROVIDING ADDITIONAL PENALTIES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1997; AMENDING AND ENACTING SECTIONS OF THE CAMPAIGN REPORTING ACT.

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

Section 1. Section 1-19-25 NMSA 1978 (being Laws 1979,

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1 Chapter 360, Section 1) is amended to read:

2 "1-19-25. SHORT TITLE.--Sections 1-19-25 through
3 [~~1-19-36~~] 1-19-37 NMSA 1978 may be cited as the "Campaign
4 Reporting Act"."

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

7 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
8 Act:

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

15 B. "anonymous contribution" means a contribution
16 the contributor of which is unknown to the candidate or [~~his~~]
17 the candidate's agent or the political committee or its agent
18 who accepts the contribution;

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

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

25 E. "candidate" means an individual who seeks or

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1 considers an office in an election covered by the Campaign
2 Reporting Act, including a public official, who either has
3 filed a declaration of candidacy or nominating petition or:

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

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

18 F. "contribution" means a gift, subscription, loan,
19 advance or deposit of money or other thing of value, including
20 the estimated value of an in-kind contribution, that is made or
21 received for a political purpose, including payment of a debt
22 incurred in an election campaign, but does not include the
23 value of services provided without compensation or unreimbursed
24 travel or other personal expenses of individuals who volunteer
25 a portion or all of their time on behalf of a candidate or

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1 political committee, nor does it include the administrative or
2 solicitation expenses of a political committee that are paid by
3 an organization that sponsors the committee;

4 G. "deliver" or "delivery" means to deliver by
5 certified or registered mail, telecopier, electronic
6 transmission or facsimile or by personal service;

7 H. "election" means any primary, general or
8 statewide special election in New Mexico and includes county
9 and judicial retention elections but excludes municipal, school
10 board and special district elections;

11 I. "election year" means an even-numbered year in
12 which an election covered by the Campaign Reporting Act is
13 held;

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

22 K. "general election period" means the period
23 during an election cycle that begins the day after the primary
24 election and ends on the day of the general election;

25 L. "independent expenditure" means a payment,

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1 transfer or distribution or obligation or promise to pay,
2 transfer or distribute any money or thing of value:

3 (1) for the purpose of expressly advocating
4 the election or defeat of a clearly identified candidate or in
5 support of or opposition to a constitutional amendment or other
6 question submitted to the voters; and

7 (2) without the cooperation, consultation,
8 request or suggestion of, or being in concert with, a
9 candidate, a candidate's authorized committee or its agents or
10 a political party or its agents;

11 [~~K-~~] M. "person" means an individual or entity;

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

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

24 (2) a single individual [~~who by his~~] whose
25 actions [~~represents~~] represent that [~~he~~] the individual is a

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1 political committee; ~~and~~

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

6 (4) a person or an organization of two or more
7 persons that makes independent expenditures in this state
8 exceeding five hundred dollars (\$500) in any calendar year;

9 ~~[M.]~~ O. "political purpose" means influencing or
10 attempting to influence an election or pre-primary convention,
11 including a constitutional amendment or other question
12 submitted to the voters;

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

16 Q. "primary election period" means the period
17 during an election cycle that begins the day after the general
18 election and ends on the day of the primary election;

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

22 ~~[P.]~~ S. "public official" means a person elected to
23 an office in an election covered by the Campaign Reporting Act
24 or a person appointed to an office that is subject to an
25 election covered by that act;

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1 [Q-] T. "reporting individual" means every public
2 official, candidate or treasurer of a campaign committee and
3 every treasurer of a political committee; and

4 [R-] U. "statement of exception" or "statement"
5 means the prescribed form subscribed and sworn to by a
6 candidate to indicate that the candidate does not intend to
7 raise or expend the minimum amount required for the filing of a
8 report of expenditures and contributions as provided in Section
9 1-19-33 NMSA 1978."

10 Section 3. Section 1-19-26.1 NMSA 1978 (being Laws 1993,
11 Chapter 46, Section 2, as amended) is amended to read:

12 "1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--
13 DISCLOSURES.--

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

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

25 (1) the full name of the political committee,

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1 which shall fairly and accurately reflect the identity of the
2 committee, including any sponsoring organization, and its
3 address;

4 (2) a statement of the purpose for which the
5 political committee was organized;

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

8 (4) the names and addresses of the officers of
9 the committee; and

10 (5) an identification of the bank used by the
11 committee for all expenditures or contributions made or
12 received.

13 C. A political committee required to register
14 pursuant to this section shall file all reports required by the
15 Campaign Reporting Act.

16 [~~G.~~] D. Except as provided in Subsection E of this
17 section, the provisions of this section do not apply to a
18 political committee that is located in another state and is
19 registered with the federal election commission if the
20 political committee reports on federal reporting forms filed
21 with the federal election commission all expenditures for and
22 contributions made to reporting individuals in New Mexico and
23 files with the secretary of state, according to the schedule
24 required for the filing of forms with the federal election
25 commission, a copy of either the full report or the cover sheet

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1 and the portions of the federal reporting forms that contain
2 the information on expenditures for and contributions made to
3 reporting individuals in New Mexico.

4 E. The provisions of Subsection D of this section
5 do not apply to a political committee that makes independent
6 expenditures in this state exceeding five hundred dollars
7 (\$500) in any calendar year."

8 Section 4. Section 1-19-27 NMSA 1978 (being Laws 1979,
9 Chapter 360, Section 3, as amended) is amended to read:

10 "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER.--

11 A. Except for those candidates who file a statement
12 of exception in an election year pursuant to Section 1-19-33
13 NMSA 1978, all reporting individuals shall [~~annually~~] file with
14 the proper filing officer [~~a report of expenditures and~~
15 ~~contributions~~] all reports required by the Campaign Reporting
16 Act on a prescribed form. The [~~report~~] reports shall be filed
17 [~~on the second Monday in May~~] pursuant to the provisions of
18 [~~Subsection A of~~] Section 1-19-29 NMSA 1978.

19 B. A reporting individual of a political committee
20 shall file the following reports in accordance with the filing
21 requirements of the Campaign Reporting Act:

22 (1) a report of expenditures and contributions
23 pursuant to Section 1-19-31 NMSA 1978 if the political
24 committee only makes expenditures or receives contributions
25 during the required reporting period;

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1 (2) a report of independent expenditures
2 pursuant to Section 1-19-31.1 NMSA 1978 if the political
3 committee only makes independent expenditures during the
4 required reporting period; or

5 (3) a report of expenditures and contributions
6 and a report of independent expenditures pursuant to Sections
7 1-19-31 and 1-19-31.1 NMSA 1978 if the political committee
8 makes expenditures or receives contributions and makes
9 independent expenditures during the required reporting period.

10 [~~B-~~] C. The proper filing officer for filing
11 reports of expenditures and contributions and reports of
12 independent expenditures by a political committee is the
13 secretary of state.

14 [~~G-~~] D. The proper filing officer for filing
15 reports of expenditures and contributions or statements of
16 exception is the secretary of state for all public officials.

17 [~~D-~~] E. The secretary of state shall develop or
18 contract for services to develop an electronic reporting system
19 for receiving and for public inspection of reports of
20 expenditures and contributions, reports of independent
21 expenditures and statements of exception to the Campaign
22 Reporting Act. The electronic reporting system shall:

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

25 (2) provide for encrypted transmissions."

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1 Section 5. Section 1-19-28 NMSA 1978 (being Laws 1979,
2 Chapter 360, Section 4, as amended) is amended to read:

3 "1-19-28. FURNISHING REPORT FORMS--POLITICAL
4 COMMITTEES--CANDIDATES.--

5 A. The secretary of state annually shall furnish to
6 all reporting individuals the prescribed forms for the
7 reporting of expenditures and contributions, the reporting of
8 independent expenditures, supplemental reports and a statement
9 of exception and the specific dates the reports and statement
10 are due.

11 B. In addition to the provisions of Subsection A of
12 this section, at the time of filing a declaration of candidacy
13 or a nominating petition, the proper filing officer shall give
14 the candidate the prescribed reporting forms and the schedule
15 of specific dates for filing the required reports or a
16 statement of exception. The prescribed forms shall also be
17 made available to all reporting individuals at the office of
18 the secretary of state and in each county at the office of the
19 county clerk."

20 Section 6. Section 1-19-29 NMSA 1978 (being Laws 1993,
21 Chapter 46, Section 5, as amended) is amended to read:

22 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

23 A. Annually, all reporting individuals shall file
24 with the proper filing officer by 5:00 p.m. on the second
25 Monday in May [~~a report of~~] all reports required by the

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1 Campaign Reporting Act for all expenditures made, [~~and~~]
2 contributions received or independent expenditures made, on or
3 before the first Monday in May and not previously reported.
4 The [~~report~~] reports shall be filed annually until the
5 reporting individual's bank account has been closed and the
6 other provisions specified in Subsection E of this section have
7 been satisfied.

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

16 (1) by 5:00 p.m. on the second Monday in
17 October, [~~a report of~~] all reports required by the Campaign
18 Reporting Act for all expenditures made, [~~and~~] contributions
19 received or independent expenditures made on or before the
20 first Monday in October and not previously reported;

21 (2) by 5:00 p.m. on the Thursday before a
22 primary, general or statewide special election, [~~a report of~~]
23 all reports required by the Campaign Reporting Act for all
24 expenditures made, [~~and~~] contributions received or independent
25 expenditures made by 5:00 p.m. on the Tuesday before the

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1 election. Any contribution or pledge to contribute that is
2 received after 5:00 p.m. on the Tuesday before the election and
3 that is for five hundred dollars (\$500) or more in a
4 legislative or non-statewide judicial election, or [~~two~~
5 ~~thousand five hundred dollars (\$2,500)] one thousand dollars
6 (\$1,000) or more in a statewide election, shall be reported to
7 the proper filing officer either in a supplemental report on a
8 prescribed form within twenty-four hours of receipt or in the
9 report to be filed by 5:00 p.m. on the Thursday before a
10 primary, general or statewide special election, except that any
11 such contribution or pledge to contribute that is received
12 after 5:00 p.m. on the Friday before the election may be
13 reported by 12:00 noon on the Monday before the election; and~~

14 (3) by 5:00 p.m. on the thirtieth day after a
15 primary, general or statewide special election, [~~a report of~~]
16 all reports required by the Campaign Reporting Act for all
17 expenditures made, [and] contributions received or independent
18 expenditures made on or before the twenty-fifth day after the
19 election and not previously reported.

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

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1 D. ~~[A report of expenditures and contributions]~~
2 Reports required by this section that are filed after a
3 deadline set forth in this section shall not be deemed to have
4 been timely filed.

5 E. Each reporting individual shall file ~~[a report~~
6 ~~of expenditures and contributions annually]~~ all reports
7 required by the Campaign Reporting Act pursuant to the filing
8 schedule set forth in this section, regardless of whether any
9 expenditures were made, ~~[or]~~ contributions were received or
10 independent expenditures were made during the reporting period.
11 Reports shall be required until the reporting individual
12 delivers a report to the proper filing officer stating that:

- 13 (1) there are no outstanding campaign debts;
14 (2) all money has been expended in accordance
15 with the provisions of Section 1-19-29.1 NMSA 1978; and
16 (3) the reporting individual's bank account
17 has been closed.

18 F. Each treasurer of a political committee shall
19 file ~~[a report of expenditures and contributions annually]~~ all
20 reports required by the Campaign Reporting Act pursuant to the
21 filing schedule set forth in this section until the treasurer
22 files a report that affirms that the committee has dissolved or
23 no longer exists and that its bank account has been closed.

24 G. A reporting individual who is a candidate within
25 the meaning of the Campaign Reporting Act because of the amount
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1 of contributions [~~he~~] the candidate receives or expenditures
2 [~~he~~] the candidate makes and who does not ultimately file a
3 declaration of candidacy or a nominating petition with the
4 proper filing officer shall nevertheless file a report, not
5 later than the second Monday in May for a primary election or
6 the second Monday in October for a general election, of all
7 contributions received and expenditures made on or before the
8 first Monday in May for a primary election or the first Monday
9 in October for a general election and not previously reported.

10 H. Reports required by this section shall be filed
11 electronically by all reporting individuals.

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

24 [~~F.~~] J. Reporting individuals may apply to the
25 secretary of state for exemption from electronic filing in case

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1 of hardship, which shall be defined by the secretary of state."

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

4 "1-19-31. [~~CONTENTS OF~~] REPORT OF EXPENDITURES AND
5 CONTRIBUTIONS.--

6 A. Each required report of expenditures and
7 contributions shall be [~~typed or printed legibly, or~~] on a
8 computer disc or format approved by the secretary of state and
9 shall include:

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

19 (2) [~~the~~] every occupation [~~or type of~~] and
20 the name of the business or businesses of [~~any~~] the person or
21 entity making contributions of [~~two hundred fifty dollars~~
22 ~~(\$250)] one hundred dollars (\$100) or more in the aggregate per
23 election;~~

24 (3) every employer of the person or entity
25 making contributions of one hundred dollars (\$100) or more in

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1 the aggregate per election;

2 [~~(3)~~] (4) the amount of the expenditure or
3 contribution or value thereof;

4 [~~(4)~~] (5) the purpose of the expenditure;
5 [~~and~~]

6 [~~(5)~~] (6) the date the expenditure was made or
7 the contribution was received; and

8 (7) the cumulative total of all contributions
9 received from the person or entity making a contribution.

10 ~~[B. The report of expenditures and contributions~~
11 ~~shall be subscribed and sworn to by the candidate or the~~
12 ~~treasurer of the political committee. If the report of~~
13 ~~expenditures and contributions is filed in an electronically~~
14 ~~readable format, the report shall be subscribed and sworn to in~~
15 ~~an independent affidavit signed by the candidate or the~~
16 ~~treasurer of the political committee and delivered to the~~
17 ~~secretary of state within forty-eight hours after the report is~~
18 ~~electronically filed.~~

19 ~~G.]~~ B. Each report shall contain an opening and
20 closing cash balance for the bank account maintained by the
21 reporting individual during the reporting period and the name
22 of the financial institution.

23 ~~[D.]~~ C. Each report shall specify the amount of
24 each unpaid debt and the identity of the person to whom the
25 debt is owed."

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1 Section 8. A new section of the Campaign Reporting Act,
2 Section 1-19-31.1 NMSA 1978, is enacted to read:

3 "1-19-31.1. [NEW MATERIAL] REPORT OF INDEPENDENT
4 EXPENDITURES.--Each required report of independent expenditures
5 shall be on a computer disc or format approved by the secretary
6 of state and shall include:

7 A. the full name and address of the committee
8 making the independent expenditure;

9 B. the name, address, occupation and employer of
10 the reporting individual filing the report on behalf of the
11 committee;

12 C. the full name of the candidate whose election is
13 supported or opposed by the independent expenditure or a
14 description of the constitutional amendment or other question
15 submitted to the voters that is supported or opposed by the
16 independent expenditure;

17 D. the total amount of independent expenditures
18 made in support of or opposition to each candidate or
19 constitutional amendment or other question submitted to the
20 voters;

21 E. for each person to whom the political committee
22 made an independent expenditure of at least one hundred dollars
23 (\$100):

24 (1) the person's full name and street address;

25 (2) the date, amount and purpose of the

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1 independent expenditure; and

2 (3) the cumulative amount of independent
3 expenditures made to the person;

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

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

9 Section 9. Section 1-19-32 NMSA 1978 (being Laws 1979,
10 Chapter 360, Section 8, as amended) is amended to read:

11 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

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

16 (1) a statement of exception;

17 (2) a report of expenditures and
18 contributions;

19 (3) a report of independent expenditures;

20 [~~(3)~~] (4) an advisory opinion issued by the
21 secretary of state;

22 [~~(4)~~] (5) a document specified as a public
23 record in the Campaign Reporting Act; and

24 [~~(5)~~] (6) an arbitration decision issued by an
25 arbitration panel and filed with the secretary of state.

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

6 C. The secretary of state shall provide for
7 electronic access to reports of expenditures and contributions
8 and reports of independent expenditures and statements of
9 exception submitted electronically by reporting individuals no
10 more than ten days after the filing deadlines imposed by the
11 Campaign Reporting Act. The secretary of state shall also
12 provide for electronic access to a list of all reporting
13 individuals who fail to file reports by the deadlines imposed
14 by that act. The secretary of state shall maintain the list in
15 accordance with Section 1-19-35 NMSA 1978. Electronic access
16 shall include access via the internet and shall be in an easily
17 searchable format."

18 Section 10. A new section of the Campaign Reporting Act
19 is enacted to read:

20 "[NEW MATERIAL] CANDIDATES--CAMPAIGN CONTRIBUTIONS--
21 LIMITATIONS.--

22 A. A person or political committee shall not make a
23 contribution or offer or agree to make a contribution, directly
24 or indirectly, to a candidate, campaign committee or treasurer
25 of a campaign committee that will cause that person's or

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1 political committee's aggregate amount of contributions to the
2 candidate to exceed two thousand three hundred dollars (\$2,300)
3 during each primary election period and general election
4 period.

5 B. A candidate, campaign committee or treasurer of
6 a campaign committee shall not accept or solicit a
7 contribution, directly or indirectly, from a person or
8 political committee that will cause that person's or political
9 committee's aggregate amount of contributions to the candidate
10 to exceed two thousand three hundred dollars (\$2,300) during
11 each primary election period and general election period.

12 C. On the day after each general election, the
13 contribution amounts provided in Subsections A and B of this
14 section shall be increased by the annual percentage increase
15 between the next preceding calendar year and the preceding
16 calendar year of the consumer price index for all urban
17 consumers, United States city average for all items, published
18 by the United States department of labor. The amount of the
19 increase shall be rounded to the nearest multiple of one
20 hundred dollars (\$100). The secretary of state shall publish
21 by October 1 before each general election the adjusted
22 contribution limits that shall take effect the day after the
23 following general election."

24 Section 11. Section 1-19-34 NMSA 1978 (being Laws 1979,
25 Chapter 360, Section 10, as amended) is amended to read:

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1 "1-19-34. CANDIDATES--POLITICAL COMMITTEES--TREASURER--
2 BANK ACCOUNT--ANONYMOUS CONTRIBUTIONS--CONTRIBUTIONS FROM
3 SPECIAL EVENTS--CASH CONTRIBUTIONS.--

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

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

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

16 (3) a separate bank account has been
17 established and all receipts of money contributions and all
18 expenditures of money are deposited in and disbursed from the
19 one bank account maintained by the treasurer in the name of the
20 candidate or political committee; provided that nothing in this
21 section shall prohibit investments from the bank account to
22 earn interest as long as the investments and earnings are fully
23 reported. All disbursements except for disbursements made from
24 a petty cash fund of one hundred dollars (\$100) or less shall
25 be by check made payable to the person or entity receiving the

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1 disbursement and not to "cash" or "bearer"; and

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

10 B. No anonymous contributions ~~[may]~~ shall be
11 accepted in excess of one hundred dollars (\$100). The
12 aggregate amount of anonymous contributions received by a
13 reporting individual during a primary or general election or a
14 statewide special election shall not exceed two thousand
15 dollars (\$2,000) for statewide races and five hundred dollars
16 (\$500) for all other races.

17 C. Cash contributions received at special events
18 that are unidentifiable as to specific contributor but
19 identifiable as to the special event are not subject to the
20 anonymous contribution limits provided for in this section [~~so~~
21 ~~long as no~~]. A single special event [raises] shall not raise,
22 after expenses, more than one thousand dollars (\$1,000) in such
23 cash contributions. For those contributions, due diligence and
24 best efforts shall be made to disclose on a special prescribed
25 form the sponsor, date, place, total amount received, expenses

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1 incurred, estimated number of persons in attendance and other
2 identifiable factors that describe the special event. For
3 purposes of this subsection, "special event" includes an event
4 such as a barbecue or similar fundraiser where tickets costing
5 fifteen dollars (\$15.00) or less are sold or an event such as a
6 coffee, tea or similar reception.

7 D. A cash contribution from a single source given
8 in a twenty-four-hour period in excess of one hundred dollars
9 (\$100) may not be accepted.

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

17 Section 12. Section 1-19-34.4 NMSA 1978 (being Laws 1993,
18 Chapter 46, Section 15, as amended) is amended to read:

19 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--
20 INVESTIGATIONS--BINDING ARBITRATION--REFERRALS FOR
21 ENFORCEMENT.--

22 A. The secretary of state shall advise and seek to
23 educate all persons required to perform duties under the
24 Campaign Reporting Act of those duties. This includes advising
25 all known reporting individuals at least annually of that act's

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1 deadlines for submitting required reports and statements of
2 exception. The secretary of state, in consultation with the
3 attorney general, shall issue advisory opinions, when requested
4 in writing to do so, on matters concerning that act. All
5 prescribed forms prepared shall be clear and easy to complete.

6 B. The secretary of state may initiate
7 investigations to determine whether any provision of the
8 Campaign Reporting Act has been violated. The secretary may
9 compel the production of books, records and papers pertinent to
10 an investigation conducted pursuant to that act. The subpoena
11 issued by the secretary shall state with reasonable certainty
12 the nature of the investigation, the nature of the information
13 required to be produced, the time and place where the
14 information shall be produced and the consequences of failure
15 to obey the subpoena.

16 C. After service of a subpoena upon a person
17 pursuant to this section, if the person neglects or refuses to
18 comply with the subpoena, the secretary of state may apply to
19 the district court where the custodian of the documents is
20 located for an order compelling compliance. A person who fails
21 to comply with the district court's order is subject to penalty
22 for contempt of court.

23 D. Failure to cooperate with an investigation
24 conducted by the secretary of state pursuant to this section is
25 a violation of the Campaign Reporting Act.

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1 ~~[Additionally]~~ E. Any person who believes that a
2 provision of ~~[that]~~ the Campaign Reporting Act has been
3 violated may file a written complaint with the secretary of
4 state any time prior to ninety days after an election, except
5 that no complaints from the public may be filed within eight
6 days prior to an election. The secretary of state shall adopt
7 procedures for issuing advisory opinions and processing
8 complaints and notifications of violations.

9 ~~[G.]~~ F. The secretary of state shall at all times
10 seek to ensure voluntary compliance with the provisions of the
11 Campaign Reporting Act. If the secretary of state determines
12 that a provision of that act for which a penalty may be imposed
13 has been violated, the secretary of state shall by written
14 notice set forth the violation and the fine imposed and inform
15 the reporting individual that ~~[he]~~ the individual has ten
16 working days from the date of the letter to correct the matter
17 and to provide a written explanation, under penalty of perjury,
18 stating any reason why the violation occurred. If a timely
19 explanation is filed and the secretary of state determines that
20 good cause exists to waive the fine imposed, the secretary of
21 state may by a written notice of final action partially or
22 fully waive any fine imposed for any late, incomplete or false
23 report or statement of exception. A written notice of final
24 action shall be sent by certified mail.

25 ~~[D.]~~ G. Upon receipt of the notice of final action,

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1 the person against whom the penalty has been imposed may
2 protest the secretary of state's determination, including an
3 advisory opinion, by submitting on a prescribed form a written
4 request for binding arbitration to the secretary of state
5 within ten working days of the date of the notice of final
6 action. Any fine imposed shall be due and payable within ten
7 working days of the date of notice of final action. No
8 additional fine shall accrue pending the issuance of the
9 arbitration decision. Fines paid pursuant to a notice of final
10 action that are subsequently reduced or dismissed shall be
11 reimbursed with interest within ten working days after the
12 filing of the arbitration decision with the secretary of state.
13 Interest on the reduced or dismissed portion of the fine shall
14 be the same as the rate of interest earned by the secretary of
15 state's escrow account to be established by the department of
16 finance and administration.

17 ~~[E-]~~ H. An arbitration hearing shall be conducted
18 by a single arbitrator selected within ten days by the person
19 against whom the penalty has been imposed from a list of five
20 arbitrators provided by the secretary of state. Neither the
21 secretary of state nor a person subject to the Campaign
22 Reporting Act, Lobbyist Regulation Act or Financial Disclosure
23 Act may serve as an arbitrator. Arbitrators shall be
24 considered to be independent contractors, not public officers
25 or employees, and shall not be paid per diem and mileage.

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1 ~~[F-]~~ I. The arbitrator shall conduct the hearing
2 within thirty days of the request for arbitration. The
3 arbitrator may impose any penalty the secretary of state is
4 authorized to impose. The arbitrator shall state the reasons
5 for ~~[his]~~ the arbitrator's decision in a written document that
6 shall be a public record. The decision shall be final and
7 binding. The decision shall be issued and filed with the
8 secretary of state within thirty days of the conclusion of the
9 hearing. Unless otherwise provided for in this section or by
10 rule ~~[or regulation]~~ adopted by the secretary of state, the
11 procedures for the arbitration shall be governed by the Uniform
12 Arbitration Act. No arbitrator shall be subject to liability
13 for actions taken pursuant to this section.

14 ~~[G-]~~ J. The secretary of state may refer a matter
15 to the attorney general or a district attorney for a civil
16 injunctive or other appropriate order or for criminal
17 enforcement."

18 Section 13. Section 1-19-35 NMSA 1978 (being Laws 1979,
19 Chapter 360, Section 11, as amended by Laws 1997, Chapter 12,
20 Section 2 and also by Laws 1997, Chapter 112, Section 5) is
21 amended to read:

22 "1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY--
23 FAILURE TO FILE.--

24 A. Except for the report required to be filed and
25 delivered the Thursday prior to the election and any

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1 supplemental report, as required in Paragraph (2) of Subsection
2 B of Section 1-19-29 NMSA 1978, that is due prior to the
3 election, and subject to the provisions of Section 1-19-34.4
4 NMSA 1978, if a statement of exception, [~~or~~] a report of
5 expenditures and contributions or a report of independent
6 expenditures contains false or incomplete information or is
7 filed after any deadline imposed by the Campaign Reporting Act,
8 the responsible reporting individual or political committee, in
9 addition to any other penalties or remedies prescribed by the
10 Election Code, shall be liable for and shall pay to the
11 secretary of state fifty dollars (\$50.00) per day for each
12 regular working day after the time required by the Campaign
13 Reporting Act for the filing of statements of exception, [~~or~~]
14 reports of expenditures and contributions or reports of
15 independent expenditures until the complete or true statement
16 or report is filed, up to a maximum of five thousand dollars
17 (\$5,000).

18 B. If any reporting individual files a false,
19 intentionally incomplete or late report of expenditures and
20 contributions or a report of independent expenditures due on
21 the Thursday prior to the election, the reporting individual or
22 political committee shall be liable and pay to the secretary of
23 state five hundred dollars (\$500) for the first working day and
24 fifty dollars (\$50.00) for each subsequent working day after
25 the time required for the filing of the report until the true

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1 and complete report is filed, up to a maximum of five thousand
2 dollars (\$5,000).

3 C. If a reporting individual fails to file or files
4 a late supplemental report of expenditures and contributions or
5 a report of independent expenditures as required in Paragraph
6 (2) of Subsection B of Section 1-19-29 NMSA 1978, the reporting
7 individual or political committee shall be liable for and pay
8 to the secretary of state a penalty equal to the amount of each
9 contribution received or pledged after the Tuesday before the
10 election that was not timely filed.

11 D. If a reporting individual fails to file a report
12 by the deadline imposed by the Campaign Reporting Act, the
13 secretary of state shall publish the individual's name on a
14 list that includes all reporting individuals who failed to file
15 a report by the appropriate deadline. The secretary shall
16 designate the individual on the list as delinquent and shall
17 only remove the individual from the list when the individual
18 satisfies the reporting requirements. The list shall be
19 electronically accessible to the public via the internet
20 pursuant to Section 1-19-32 NMSA 1978.

21 [~~D.~~] E. All sums collected for the penalty shall be
22 deposited in the state general fund. A report or statement of
23 exception shall be deemed timely filed only if it is received
24 by the proper filing officer by the date and time prescribed by
25 law.

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1 ~~[E-]~~ F. Any candidate who fails or refuses to file
2 a report of expenditures and contributions or statement of
3 exception or to pay a penalty imposed by the secretary of state
4 as required by the Campaign Reporting Act shall not, in
5 addition to any other penalties provided by law:

6 (1) have ~~[his]~~ the candidate's name printed
7 upon the ballot if the violation occurs before and through the
8 final date for the withdrawal of candidates; or

9 (2) be issued a certificate of nomination or
10 election, if the violation occurs after the final date for
11 withdrawal of candidates or after the election, until the
12 candidate satisfies all reporting requirements of the Campaign
13 Reporting Act and pays all penalties owed.

14 ~~[F-]~~ G. Any candidate who loses an election and who
15 failed or refused to file a report of expenditures and
16 contributions, a report of independent expenditures or a
17 statement of exception or to pay a penalty imposed by the
18 secretary of state as required by the Campaign Reporting Act
19 shall not be, in addition to any other penalties provided by
20 law, permitted to file a declaration of candidacy or nominating
21 petition for any future election until the candidate satisfies
22 all reporting requirements of that act and pays all penalties
23 owed."

24 Section 14. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is January 1, 2008.

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