

ARTICLE 19

Campaign Practices

Sec.

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1-19-1. Campaign practices; primary election; expenditure of party money.

A. No contribution of money, or the equivalent thereof, made directly or indirectly to any political party, to any political party committee, to members of any political party committee or to any person representing or acting on behalf of a political party, and no money in the treasury of any political party or political party committee shall be expended directly or indirectly in the aid of the nomination at a primary election of any one or more persons as against any one or more other persons of the same political party running in such primary election.

B. Any person who expends money, or is responsible for the expenditure of money, in violation of this section is guilty of a petty misdemeanor.

History: 1953 Comp., § 3-19-1, enacted by Laws 1969, ch. 240, § 405.

1-19-2 to 1-19-15. Repealed.

1-19-16. Repealed.

1-19-17. Repealed.

1-19-18 to 1-19-24. Repealed.

1-19-25. Short title.

Sections 1-19-25 through 1-19-36 NMSA 1978 may be cited as the "Campaign Reporting Act".

1-19-26. Definitions.

As used in the Campaign Reporting Act:

A. "advertisement" means a communication referring to a candidate or ballot question 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;
- (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 participate or, in the case of an uncontested election, that the single candidate for the position has been invited to participate;
- (4) nonpartisan voter guides allowed by the federal Internal Revenue Code of 1986, as amended, for Section 501(c)(3) organizations; or
- (5) statements made to a court or administrative board in the course of a formal judicial or administrative proceeding;

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

D. "bank account" means an account in a financial institution regulated by the United States or a state of the United States;

E. "campaign committee" means an association of two or more persons authorized by a candidate to act on the candidate's behalf for the purpose of electing the candidate to office; provided that a candidate shall not authorize more than one campaign committee;

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

G. "candidate" means an individual who seeks or considers an office in an election covered by the Campaign Reporting Act, including a public official, who has filed a declaration of candidacy 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 authorized another person or campaign committee to receive contributions or make expenditures of more than one thousand dollars (\$1,000) for the purpose of seeking election to the office; or
- (2) for a statewide office, has received contributions or made expenditures of more than three thousand dollars (\$3,000) or authorized another person or campaign committee to receive contributions or make expenditures of 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;

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;
- (2) includes a coordinated expenditure;
- (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; and
- (4) does not include the value of the incidental use of the candidate's personal property, home or business office for campaign purposes;

I. "coordinated expenditure" means an expenditure 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 a candidate, campaign committee or political party; and

- (3) for the purpose of:
- (a) supporting or opposing the nomination or election of a candidate; or
 - (b) paying for an advertisement that 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 in which the candidate is on the ballot;
- J. "deliver" or "delivery" means to deliver by certified or registered mail, telecopier, electronic transmission or facsimile or by personal service;
- K. "election" means any primary, 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;
- L. "election year" means an even-numbered year in which an election covered by the Campaign Reporting Act is held;
- 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;
- 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 defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot question;
 - (b) is susceptible to no other reasonable interpretation than as an appeal to vote for or against a clearly identified candidate or ballot question; or
 - (c) refers to a clearly identified candidate or ballot question 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 question is on the ballot;
- O. "legislative caucus committee" means a political committee established by the members of a political party in a chamber of the legislature;
- P. "person" means an individual or entity;
- Q. "political committee" means:
- (1) a political party;
 - (2) a legislative caucus committee;
 - (3) 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
 - (4) an association that consists of two or more persons whose primary purpose is to make independent expenditures and that has received more than five thousand dollars (\$5,000) in contributions or made independent expenditures of more than five thousand dollars (\$5,000) in the election cycle;
- R. "political party" means an association that has qualified as a political party pursuant to the provisions of Section 1-7-2 NMSA 1978;
- S. "political purpose" means for the purpose of supporting or opposing a ballot question or the nomination or election of a candidate;
- T. "prescribed form" means a form or electronic format prepared and prescribed by the secretary of state;
- 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
- V. "reporting individual" means a public official, candidate or treasurer of a campaign committee or a treasurer of a political committee.

History: 1978 Comp., § 1-19-26, enacted by Laws 1979, ch. 360, § 2; 1981, ch. 331, § 1; 1985, ch. 2, § 10; 1993, ch. 46, § 1; 1993, ch. 55, § 12; 1993, ch. 314, § 58; 1995, ch. 153, § 1; 1997, ch. 112, § 2; 2003, ch. 66, § 1; 2009, ch. 67, § 1; 2009, ch. 68, § 2; 2019, ch. 262, § 4.

1-19-26.1. Political committees; registration; disclosures.

- A. It is unlawful for a political committee to continue to receive or make any contribution or expenditure for a political purpose if the committee fails to meet the requirements of Subsections B and C of this section.
- B. A political committee shall appoint and maintain a treasurer, file a statement of organization with the secretary of state and pay a filing fee of fifty dollars (\$50.00).
- 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 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 committee was organized;
- (3) the names and addresses of the officers of the committee; and
- (4) an identification of any bank account used by the committee to receive or make contributions or make expenditures.

D. Any changes to the information provided in the statement of organization shall be reported to the secretary of state within ten days.

E. The provisions of this section do not apply 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 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.

History: 1978 Comp., § 1-19-26.1, enacted by Laws 1993, ch. 46, § 2; 1995, ch. 153, § 2; 2002, ch. 89, § 2; 2019, ch. 262, § 5.

1-19-26.2. Rules and regulations.

The secretary of state may adopt and promulgate rules and regulations to implement the provisions of the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978]. In adopting and promulgating these rules and regulations, the secretary of state shall comply with the provisions of the Administrative Procedures Act [Chapter 12, Article 8 NMSA 1978]. In addition to any other notification required pursuant to the provisions of Paragraph (2) of Subsection A of Section 12-8-4 NMSA 1978, the secretary of state shall notify all qualified political parties in the state and the New Mexico legislative council prior to adopting, amending or repealing any rule or regulation.

History: Laws 1997, ch. 112, § 1.

1-19-26.3. Campaign committee and political committee expenditures; disclosure; telephone calls; records.

A. A campaign committee or political committee that is required to register pursuant to the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] shall not expend campaign or political committee funds to directly or indirectly pay for a telephone call without disclosing to the recipient the name of the organization that authorized or paid for the call if the call:

- (1) is one of five hundred or more calls that are similar in nature made during an election cycle by an individual or individuals, or by electronic means; and
- (2) advocates support for, or opposition to, a candidate for public office or ballot measure.

B. The campaign committee or political committee that pays for a call referred to in Subsection A of this section shall be disclosed in the call unless the organization that authorized the call and in whose name it is placed has filing obligations pursuant to the Campaign Reporting Act and the name announced in the call is either:

- (1) the full name by which the organization or individual is identified in any statement or report required to be filed pursuant to the Campaign Reporting Act; or
- (2) the name by which the organization or individual is commonly known.

C. A campaign committee or political committee that pays directly or indirectly for telephone calls as described in Subsection A of this section shall maintain a record of the script of the calls for at least ninety days following election day. If any of the calls qualifying pursuant to Subsection A of this section are recorded messages, a copy of the recording shall also be maintained for that period.

D. A campaign committee or political committee may not contract with a phone bank vendor that does not disclose the information required to be disclosed by Subsection A or B of this section.

History: Laws 2002, ch. 89, § 1.

1-19-26.4. 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 one thousand dollars (\$1,000), 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 election cycle, exceeds one thousand dollars (\$1,000), shall ensure that the advertisement 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.

History: Laws 2019, ch. 262, § 2.

1-19-27. Reports required; electronic reporting system; campaign reporting system fund.

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 [1-19-25 through 1-19-36 NMSA 1978] in an electronic format prescribed by the secretary of state.

B. The secretary of state shall develop or contract for services to develop an electronic reporting system for reporting individuals to register with the secretary of state and file all reports of expenditures and contributions and statements of no activity as required by the Campaign Reporting Act. The electronic reporting system shall:

- (1) enable a person to register and file reports online by electronically submitting the relevant data to the secretary of state's website;
- (2) for the submission of data, use unique identifiers and master drop-down lists of candidates, political committees, lobbyists and, to the extent reasonably possible, master lists of contributors, occupations, expenditure types and contribution types;
- (3) provide the data in open, structured formats for easy search and download to allow for public inspection of all report data from the secretary of state's website;
- (4) provide for cross-checking and compliance features;
- (5) provide for online registration and fee payment for political committees and lobbyists;
- (6) integrate, to the extent possible, with the reporting required by the Lobbyist Regulation Act [Chapter 2, Article 11 NMSA 1978];
- (7) to the extent possible, provide for a mechanism to directly upload the required data from other third-party tools; and
- (8) provide for encrypted transmissions.

C. Registration fees collected by the secretary of state from lobbyists and political committees shall be deposited in the "campaign reporting system fund", which is hereby created in the state treasury. Money in the fund is appropriated to the secretary of state for the purposes of paying for upgrades, maintenance and operation of the electronic reporting system. Money remaining in the fund at the end of a fiscal year shall not revert to the general fund.

History: 1978 Comp., § 1-19-27 enacted by Laws 1979, ch. 360, § 3; 1981, ch. 331, § 2; 1993, ch. 46, § 3; 1995, ch. 153, § 3; 2003, ch. 66, § 2; 2009, ch. 67, § 2; 2016, ch. 13, § 1.

1-19-27.1, 1-19-27.2. Repealed.

1-19-27.3. Independent expenditures; reporting requirements.

A. A person who makes an independent expenditure not otherwise required to be reported under the Campaign Reporting Act shall file a report with the secretary of state within:

- (1) three days of making the expenditure if the expenditure, by itself or aggregated with all independent expenditures made by the same person during the election cycle, exceeds one thousand dollars (\$1,000) in a nonstatewide election or three thousand dollars (\$3,000) in a statewide election; or
- (2) twenty-four hours of making the expenditure if the expenditure is in an amount of three thousand dollars (\$3,000) or more and is made within seven days before a nonstatewide or statewide election.

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
- (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 required to be reported under this section in an amount totaling three thousand dollars (\$3,000) or less in a nonstatewide election or nine thousand dollars (\$9,000) or less in a statewide election shall report the name and address of each person who has made contributions of more than a total of two hundred dollars (\$200) in the election cycle that were earmarked or made in response to a solicitation to fund independent expenditures and shall report the amount of each such contribution made by that person.

D. A person who makes independent expenditures required to be reported under this section in an amount totaling more than three thousand dollars (\$3,000) in a nonstatewide election or nine thousand dollars (\$9,000) in a statewide election, in addition to reporting the information specified in Subsection C of this section, shall either:

- (1) if the expenditures were made exclusively from a segregated bank account consisting only of funds contributed to the account by individuals to be used for making independent expenditures, 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 election cycle; or
- (2) if the expenditures were made in whole or part from funds other than those described in Paragraph (1) of this subsection, report the name and address of, and amount of each contribution made by, each contributor who contributed more than a total of five thousand dollars (\$5,000) during the election cycle to the person making the expenditures; 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 to make contributions to a candidate, campaign committee or political committee.

E. If a person who has made a report required by this section is required to make subsequent reports during the election cycle, the information concerning contributions in the subsequent reports shall cover only contributions not previously reported.

History: Laws 2019, ch. 262, § 1.

1-19-28. Furnishing report forms; political committees; candidates.

A. The secretary of state annually shall furnish to all reporting individuals the prescribed forms for the reporting of expenditures and contributions, supplemental reports and a statement of no activity and the specific dates the reports and statement are due.

B. In addition to the provisions of Subsection A of this section, at the time of filing a declaration of candidacy or a nominating petition, the secretary of state shall give the candidate the prescribed reporting forms and the schedule of specific dates for filing the required reports or a statement of no activity. The prescribed forms shall also be made available to all reporting individuals at the office of the secretary of state and in each county at the office of the county clerk.

History: 1978 Comp., § 1-19-28, enacted by Laws 1979, ch. 360, § 4; 1981, ch. 331, § 5; 1985, ch. 2, § 11; 1993, ch. 46, § 4; 1993, ch. 55, § 13; 1993, ch. 314, § 59; 1995, ch. 153, § 4; 2009, ch. 67, § 3; 2019, ch. 262, § 6.

1-19-29. Time and place of filing reports.

A. Except as otherwise provided in this section, all reporting individuals shall file with the secretary of state no later than 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 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) no later than the second Monday in April, a report of all expenditures made and contributions received on or before the first Monday in April and not previously reported;
- (2) no later than the second Monday in May, a report of all expenditures made and contributions received on or before the first Monday in May and not previously reported;
- (3) no later than the second Monday in September, a report of all expenditures made and contributions received on or before the first Monday in September and not previously reported;
- (4) no later than the second Monday in October, a report of all expenditures made and contributions received on or before the first Monday in October and not previously reported; provided that if the second Monday of October is a state holiday, the report shall be made on the following day;
- (5) no later than the Thursday before a primary, 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 received after 5:00 p.m. on the Tuesday before the election and that is for more than one thousand dollars (\$1,000) in a nonstatewide election, or more than three thousand dollars (\$3,000) in a statewide election, shall be reported to the secretary of state either in a supplemental report on a prescribed form within twenty-four hours of receipt or in the report to be filed no later than the Thursday before a primary, 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;
- (6) no later than the thirtieth day after a primary election, a report by all reporting individuals, except those individuals that become candidates after the primary election, of all expenditures made and contributions received on or before the twenty-fifth day after the primary election and not previously reported;
- (7) no later than the thirtieth day after a statewide special election, a report of all expenditures made and contributions received on or before the twenty-fifth day after the statewide special election and not previously reported; and
- (8) no later than January 7 after a general election, a report of all expenditures made and contributions received on or before December 31 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 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, campaign committees and public officials who file a statement of no activity, each candidate, campaign committee or public official 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 secretary of state 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 accounts have been closed.

G. If, during a nonelection year, a political committee has not received any contributions or made any coordinated or independent expenditures since it filed its last report pursuant to this section, it need not file any report under this section until the next reporting period, if any, in which it receives contributions or makes expenditures. A political committee that has not received any contributions or made any coordinated or independent expenditures for a continuous period of at least one year may cancel its registration as a political committee by submitting an appropriate request in writing to the secretary of state. The committee shall retain the obligation to submit a new registration pursuant to Section 1-19-26.1 NMSA 1978 in the event that its future activities meet the requisites for registration under that section.

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 secretary of state 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 or, in the case of candidates for judicial office, by the treasurer of the candidate's campaign committee. A

report filed electronically shall be electronically authenticated by the candidate or the treasurer of the committee using an electronic signature in conformance with the Electronic Authentication of Documents Act [14-15-1 through 14-15-6 NMSA 1978] and the Uniform Electronic Transactions Act [Chapter 14, Article 16 NMSA 1978]. 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 committee who was required to file the report. 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.

History: 1978 Comp., § 1-19-29, enacted by Laws 1993, ch. 46, § 5; 1995, ch. 153, § 5; 1997, ch. 12, § 1; 1997, ch. 112, § 3; 2003, ch. 66, § 3; 2007, ch. 202, § 1; 2009, ch. 67, § 4; 2019, ch. 262, § 7.

1-19-29.1. Campaign funds; limitation on use.

A. It is unlawful for a candidate or the candidate's agent to make an expenditure of contributions received, except for the following purposes or as otherwise provided in this section:

- (1) expenditures of the campaign;
- (2) expenditures of legislators that are reasonably related to performing the duties of the office held, including mail, telephone and travel expenditures to serve constituents, but excluding personal and legislative session living expenses;
- (3) donations to the state general fund;
- (4) donations to an organization to which a federal income tax deduction would be permitted under Subparagraph (A) of Paragraph (1) of Subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended;
- (5) expenditures to eliminate the campaign debt of the candidate for the office sought or expenditures incurred by the candidate when seeking election to another public office covered by the Campaign Reporting Act;
- (6) donations to a political committee or to another candidate seeking election to public office; or
- (7) disbursements to return unused funds pro rata to the contributors if no campaign debt exists.

B. A judge subject to a nonpartisan retention election or a candidate for judicial office shall solicit or accept campaign funds and return unused funds in accordance with the provisions of the Code of Judicial Conduct.

C. No contributions solicited for or received in a federal election campaign may be used in a state election campaign.

History: 1978 Comp., § 1-19-29.1, enacted by Laws 1993, ch. 46, § 6; 1995, ch. 153, § 6; 2009, ch. 68, § 3.

1-19-30. Repealed.

1-19-31. Contents of report.

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:

- 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;
- B. the occupation, name and type of business, as applicable, of any individual or entity making contributions of two hundred dollars (\$200) or more in the aggregate per election;
- C. the amount of the expenditure or contribution or value thereof;
- D. the purpose of the expenditure;
- E. the date that the expenditure was made or the contribution was received;
- F. the opening and closing cash balance for the bank accounts maintained by the reporting individual during the reporting period and the name of the financial institution for each account; and
- G. the amount of each unpaid debt and the identity of the person to whom the debt is owed.

History: 1978 Comp., § 1-19-31, enacted by Laws 1979, ch. 360, § 7; 1981, ch. 331, § 8; 1993, ch. 46, § 7; 1994, ch. 86, § 1; 1995, ch. 153, § 7; 2007, ch. 202, § 2; 2019, ch. 262, § 8.

1-19-32. Inspection of public records.

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

- (1) a statement of exception;
- (2) a report of expenditures and contributions;
- (3) an advisory opinion issued by the secretary of state;
- (4) a document specified as a public record in the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978]; and
- (5) an arbitration decision issued by an arbitration panel and filed with the secretary of state.

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

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

History: 1978 Comp., § 1-19-32, enacted by Laws 1979, ch. 360, § 8; 1993, ch. 46, § 8; 1995, ch. 153, § 8; 2003, ch. 66, § 4.

1-19-32. Inspection of public records. (Effective January 1, 2020.)

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

- (1) a statement of no activity;*
- (2) a report of expenditures and contributions;*
- (3) an advisory opinion issued by the state ethics commission; except for the name of the person who requested the opinion;*
- (4) a document specified as a public record in the Campaign Reporting Act; and*
- (5) an arbitration decision issued by an arbitration panel and filed with the secretary of state or state ethics commission.*

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

C. The secretary of state shall provide for electronic access to reports of expenditures and contributions and statements of no activity submitted electronically by reporting individuals. Electronic access shall include access via the internet and shall be in an easily searchable format.

History: 1978 Comp., § 1-19-32, enacted by Laws 1979, ch. 360, § 8; 1993, ch. 46, § 8; 1995, ch. 153, § 8; 2003, ch. 66, § 4; 2019, ch. 86, § 17.

1-19-32.1. Reports examination; forwarding of reports.

A. The secretary of state shall conduct a thorough examination of at least ten percent of all reports filed during a year by reporting individuals, selected at random at least forty days after the general election and ten days after the April reports are filed in a nonelection year, to determine compliance with the provisions of the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978]. The examination may include an investigation of any discrepancies, including a cross-reference to reports filed by any other reporting individual. A reporting individual shall be notified in writing if a discrepancy is found in the report filed and shall be permitted to file a written explanation for the discrepancy within ten working days of the date of the notice. The notice, penalty and arbitration provisions set forth in Section 1-19-34.4 NMSA 1978 shall apply to examinations conducted under this section.

B. After the date stated in the notice of final action for submission of a written explanation, the secretary of state shall prepare an annual report of any unresolved discrepancies found after examination of the random sample provided for in Subsection A of this section. A copy of this report shall be transmitted to the attorney general for enforcement pursuant to the provisions of Section 1-19-36 NMSA 1978. This report is a public record open to public inspection and subject to the retention and destruction provisions set forth in Section 1-19-32 NMSA 1978.

History: 1978 Comp., § 1-19-32.1, enacted by Laws

1-19-33. Repealed.

1-19-34. Candidates; political or campaign committees; treasurer; bank account; anonymous contributions; contributions from special events; credit and debit card contributions.

A. A political or campaign committee or a candidate 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 committee shall appoint a successor and notify the secretary of state within ten days; and provided further that a candidate may serve as 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 bank account has been established and all receipts of money contributions are deposited in and all expenditures of money are disbursed from one or more bank accounts maintained by the treasurer in the name of the candidate or committee; provided that nothing in this section shall prohibit investments from a 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 disbursement or receipt, to whom disbursed or from whom received and the object or purpose for which it was disbursed or received.

B. No anonymous contributions shall be accepted 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) for statewide races and five hundred dollars (\$500) 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 twenty-five dollars (\$25.00) or less are sold or an event such as a coffee, tea or similar reception; provided that no candidate shall accept contributions of more than twenty-five dollars (\$25.00) in cash at a special event from any one contributor.

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 federal Internal Revenue Code of 1986, as amended.

E. A candidate or political committee shall not accept a contribution made by a credit card or a debit card via the internet or where the card is not physically present unless, at the time the contribution is made, the contributor provides the card security code assigned to and printed or imprinted on the card and the billing address associated with the card.

History: 1978 Comp., § 1-19-34 enacted by Laws
1979, ch. 360, § 10; 1981, ch. 331, § 10; 1993, ch. 46,
§ 11; 1995, ch. 153, § 11; 2013, ch. 53, § 1; 2018, ch. 29,
§ 1; 2019, ch. 262, § 9.

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 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 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.

History: 1978 Comp., § 1-19-34.1, enacted by Laws 1993, ch. 46, § 12; 1995, ch. 153, § 12.

1-19-34.1. Legislative session fundraising prohibition. (Effective January 1, 2020.)

A. It is unlawful during the prohibited period for a state legislator, the attorney general, the secretary of state, the state treasurer, the commissioner of public lands or the state auditor or a candidate for state legislator, attorney general, secretary of state, state treasurer, commissioner of public lands or state auditor, or any agent on behalf of the attorney general, the secretary of state, the state treasurer, the commissioner of public lands or the state auditor or a candidate for attorney general, the secretary of state, state treasurer, commissioner of public lands or state auditor, to knowingly solicit a contribution governed by the Campaign Reporting Act. 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 the lieutenant governor, or any agent on the governor's or the lieutenant governor's behalf, to knowingly solicit a contribution governed by the Campaign Reporting Act. 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 the twentieth day following the adjournment of the regular or special session.

History: 1978 Comp., § 1-19-34.1, enacted by Laws 1993, ch. 46, § 12; 1995, ch. 153, § 12; 2019, ch. 86, § 18.

1-19-34.2. Regulated industry solicitations prohibited.

It is unlawful for an elected state official, public officer or employee who works for a regulatory office or a candidate who seeks election to a regulatory office or anyone authorized by a candidate to solicit funds on his behalf to knowingly solicit a contribution from an entity or its officers or employees or a person that is directly regulated by the office. For purposes of this section, an entity or person is directly regulated by an office when the entity's or person's charges for services offered to the public are set or directly subject to approval by the regulatory office or when a license to do business in the state is determined by the regulatory office.

History: 1978 Comp., § 1-19-34.2, enacted by Laws 1993, ch. 46, § 13; 1995, ch. 153, § 13.

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 shall make contributions or expenditures with an intent to conceal the names of persons who are the true source of funds used to make independent expenditures or the true recipients of the expenditures.

History: 1978 Comp., § 1-19-34.3, enacted by Laws 1993, ch. 46, § 14; 1994, ch. 84, § 1; 1995, ch. 153, § 14; 2009, ch. 68, § 4; 2019, ch. 262, § 10.

1-19-34.4. Education and voluntary compliance; investigations; binding arbitration; referrals for enforcement.

A. The secretary of state shall advise and seek to educate all persons required to perform duties under the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] of those duties. This includes advising all known reporting individuals at least annually of that act's deadlines for submitting required reports and statements of exception. The secretary of state, in consultation with the attorney general, shall issue advisory opinions, when requested in writing to do so, on matters concerning that act. All prescribed forms prepared shall be clear and easy to complete.

B. The secretary of state may initiate investigations to determine whether any provision of the Campaign Reporting Act has been violated. Additionally, any person who believes that a provision of that act has been violated may file a written complaint with the secretary of state any time prior to ninety days after an election, except that no complaints from the public may be filed within eight days prior to an election. The secretary of state shall adopt procedures for issuing advisory opinions and processing complaints and notifications of violations.

C. The secretary of state shall at all times seek to ensure voluntary compliance with the provisions of the Campaign Reporting Act. If the secretary of state determines that a provision of that act for which a penalty may be imposed has been violated, the secretary of state shall by written notice set forth the violation and the fine imposed and inform the reporting individual that he has ten working days from the date of the letter to correct the matter and to provide a written explanation, under penalty of perjury, stating any reason why the violation occurred. If a timely explanation is filed and the secretary of state determines that good cause exists to waive the fine imposed, the secretary of state may by a written notice of final action partially or fully waive any fine imposed for any late, incomplete or false report or statement of exception. A written notice of final action shall be sent by certified mail.

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

E. An arbitration hearing shall be conducted by a single arbitrator selected within ten days by the person against whom the penalty has been imposed from a list of five arbitrators provided by the secretary of state. Neither the secretary of state nor a person subject to the Campaign Reporting Act, Lobbyist Regulation Act [Chapter 2, Article 11 NMSA 1978] or Financial Disclosure Act [10-16A-1 through 10-16A-8 NMSA 1978] may serve as an arbitrator. Arbitrators shall be considered to be independent contractors, not public officers or employees, and shall not be paid per diem and mileage.

F. The arbitrator shall conduct the hearing within thirty days of the request for arbitration. The arbitrator may impose any penalty the secretary of state is authorized to impose. The arbitrator shall state the reasons for his decision in a written document that shall be a public record. The decision shall be final and binding. The decision shall be issued and filed with the secretary of state within thirty days of the conclusion of the hearing. Unless otherwise provided for in this section or by rule or regulation adopted by the secretary of state, the procedures for the arbitration shall be governed by the Uniform Arbitration Act [Chapter 44, Article 7A NMSA 1978]. No arbitrator shall be subject to liability for actions taken pursuant to this section.

G. The secretary of state may refer a matter to the attorney general or a district attorney for a civil injunctive or other appropriate order or for criminal enforcement.

History: 1978 Comp., § 1-19-34.4, enacted by Laws 1993, ch. 46, § 15; 1995, ch. 153, § 15; 1997, ch. 112, § 4.

1-19-34.5. Presumptions; civil action.

A. For purposes of a civil action, it shall be presumed that a public official or a candidate for public office subject to the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] has authorized and approved each solicitation for campaign contributions made by his campaign committee or a person authorized by the candidate to solicit campaign contributions on his behalf.

B. For purposes of a civil action, it shall be presumed that a candidate who seeks election to a regulatory office, as described in Section 1-19-34.2 NMSA 1978, has advised his campaign committee and all persons authorized by the candidate to solicit campaign contributions on his behalf that it is unlawful to solicit contributions from an entity or its officers or employees or a person that is directly regulated by the office the candidate seeks.

History: Laws 1995, ch. 153, § 18.

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 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 up to one thousand dollars (\$1,000) for each violation not to exceed 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 up to one thousand dollars (\$1,000) for each violation not to exceed a total of twenty thousand dollars (\$20,000).

History: Laws 1995, ch. 153, § 19; 2019, ch. 262, § 11.

1-19-34.7. Contribution limitations; candidates; political committees.

A. Except as provided in Subsections H through J of this section:

(1) 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; provided that a person may make a contribution attributable to the general election cycle during the primary election cycle even though the person has contributed the maximum

amount allowed for the primary election cycle:

(a) if that contribution is not used to pay for any expenditure related to the primary election; and

(b) if the candidate is not on the general election ballot, all contributions made to the candidate for the general election are returned to the persons who made the contributions or deposited in the public election fund; and

(2) a primary election candidate who does not become a candidate on the general election ballot shall remain subject to the contribution limits of the primary election cycle and shall not accept a contribution from a person who has contributed the maximum allowable amount during the primary election cycle to pay for primary election expenditures of the campaign.

B. A person, including a political committee, shall not make a contribution to a candidate committee authorized for the purpose of electing a candidate for governor in an amount that will cause that person's total contributions to the committee to exceed two times the limit imposed pursuant to Subsection A of this section.

C. Except as provided in Subsection K of this section, a person, including a political committee, shall not make a contribution to a political party or legislative caucus committee in an amount that will cause that person's total contributions to the political party or legislative caucus committee to exceed five times the limit imposed pursuant to Subsection A of this section.

D. 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.

E. 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.

F. On January 1 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 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 January 1 following general election.

G. 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 that the contribution limits have been exceeded.

H. 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 funds to the candidate's own campaign.

I. 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 a contribution to a political committee that is deposited in a segregated bank account that may only be used to make independent expenditures.

J. The limitations on contributions to candidates or campaign committees provided for in Subsection A of this section shall not apply to the value of in-kind contributions from a political party or legislative caucus committee to a candidate nominated by that party in a general election cycle.

K. The limitations on contributions to political parties or legislative caucus committees provided for in Subsection C of this section shall not apply to contributions from a campaign committee authorized for the purpose of electing a candidate from that party in a primary or general election cycle. For purposes of this subsection, "campaign committee" includes a candidate committee regulated by the federal election commission.

L. The members of a political party in a chamber of the legislature shall not maintain more than one legislative caucus committee in each chamber.

History: Laws 2009, ch. 68, § 1; 2019, ch. 262, § 12.

1-19-34.8. State ethics commission; jurisdiction. (Effective January 1, 2020.)

A. On and after January 1, 2020:

(1) the state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Campaign Reporting Act in accordance with the provisions of that act; and

(2) the state ethics commission shall share jurisdiction to investigate and adjudicate complaints, or any aspect of a complaint, with the secretary of state as formalized through an agreement. The secretary of state shall forward complaints it receives alleging violations of the Campaign Reporting Act to the state ethics commission in accordance with the agreement.

B. The state ethics commission and the secretary of state shall make recommendations to the first session of the fifty-fifth legislature on any changes to the Campaign Reporting Act necessary for the efficient administration and enforcement of the provisions of that act.

History: Laws 2019, ch. 86, § 19.

1-19-35. Reports and statements; late filing penalty; failure to file.

A. Except for the report required to be filed and delivered the Thursday prior to the election and any supplemental report, as required in Paragraph (5) of Subsection B of Section 1-19-29 NMSA 1978, that is due prior to the election, and subject to the provisions of Section 1-19-34.4 NMSA 1978, if a statement of no activity or a report of expenditures and contributions contains false or incomplete information or is filed after any deadline imposed by the Campaign Reporting Act, the responsible reporting individual or political committee, in addition to any other penalties or remedies prescribed by the Election Code, shall be liable for and shall pay to the secretary of state fifty dollars (\$50.00) per day for each regular working day after the time required by the Campaign Reporting Act for the filing of statements of no activity or reports of expenditures and contributions until the complete or true statement or report is filed, up to a maximum of five thousand dollars (\$5,000).

B. If any reporting individual files a false, intentionally incomplete or late report of expenditures and contributions due on the Thursday prior to the election, the reporting individual or political committee shall be liable and pay to the secretary of state five hundred dollars (\$500) for the first working day and fifty dollars (\$50.00) for each subsequent working day after the time required for the filing of the report until the true and complete report is filed, up to a maximum of five thousand dollars (\$5,000).

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

D. All sums collected for the penalty shall be deposited in the state general fund. A report or statement of no activity shall be deemed timely filed only if it is received by the secretary of state by the date and time prescribed by law.

E. Any candidate who fails or refuses to file a report of expenditures and contributions or statement of no activity or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act shall not, in addition to any other penalties provided by law:

(1) have the candidate's name printed upon the ballot if the violation occurs before and through the final date for the withdrawal of candidates; or

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

F. Any candidate who loses an election and who failed or refused to file a report of expenditures and contributions or a statement of no activity or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act shall not be, in addition to any other penalties provided by law, permitted to file a declaration of candidacy or nominating petition for any future election until the candidate satisfies all reporting requirements of that act and pays all penalties owed.

History: 1978 Comp., § 1-19-35, enacted by Laws 1979, ch. 360, § 11; 1981, ch. 331, § 11; 1993, ch. 46, § 16; 1994, ch. 86, § 3; 1995, ch. 153, § 16; 1997, ch. 12, § 2; 1997, ch. 112, § 5; 2009, ch. 67, § 6; 2019, ch. 262, § 13.

1-19-36. Penalties.

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 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.

History: 1978 Comp., § 1-19-36, enacted by Laws 1979, ch. 360, § 12; 1993, ch. 46, § 17; 1995, ch. 153, § 17; 2019, ch. 262, § 14.

1-19-37. Applicability.

The provisions of the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] do not apply to any candidate subject to the provisions of the federal law pertaining to campaign practices and finance.

History: Laws 1979, ch. 360, § 14.

