

# CAMPAIGN REPORTING ACT

## ARTICLE 19 Campaign Practices

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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.

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 Repealed.**

**1-19-16. Campaign practices; printing or publishing campaign material without specifying sponsor; penalty.**

A. It is unlawful for any person, organization or political committee to publish or print any campaign advertising or communication which does not specify the name of the sponsor or the name of a responsible officer who authorized the printing or publication of such material, in any election, special election, school district election or an election authorizing a bond issue. This prohibition extends only to handbills, petitions, circulars, letters or similar written material.

B. Any printing establishment shall identify itself as the printer of the campaign material.

C. Any person, organization or political committee violating the provisions of Subsection A or B of Section 1-19-16 NMSA 1978 is guilty of a fourth degree felony and shall be punished as provided in the Criminal Code [30-1-1 NMSA 1978].

**1-19-17. Campaign practices; circulation of campaign material without specifying sponsor; penalty.**

A. It is unlawful for any person, organization or political committee to circulate or distribute any campaign advertising or communication which does not specify the name of the sponsor of such material, in any election, special election, school district election or an election authorizing a bond issue. This prohibition extends to handbills, petitions, circulars or similar written material.

B. Any person, organization or political committee violating the provisions of Subsection A of Section 1-19-17 NMSA 1978 is guilty of a misdemeanor and shall be punished as provided in the Criminal Code [30-1-1 NMSA 1978].

**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 [1-19-25 to 1-19-36 NMSA 1978]:

A. "advertising campaign" means an advertisement or series of advertisements used for a political purpose and disseminated to the public either in print, by radio or television broadcast or by any other electronic means,

including telephonic communications, and may include direct or bulk mailings of printed materials;

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

C. “bank account” means an account in a financial institution located in New Mexico’

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

E. “candidate” means an individual who seeks or considers an office in an election covered by the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978], including a public official, who either has filed a declaration of candidacy or nominating petition or:

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

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

F. “contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign, but 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;

G. “deliver” or “delivery” means to deliver by certified or registered mail, telecopier, electronic transmission or facsimile or by personal service;

H. “election” means any primary, general or statewide special election in New Mexico and includes county and judicial retention elections but excludes municipal, school board and special district elections;

I. “election year” means an even-numbered year in which an election covered by the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] is held;

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

K. “person” means an individual or entity;

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

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

(2) a single individual who by his actions represents that he is a political committee; and

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

M. “political purpose” means influencing or attempting to influence an election or preprimary convention, including a constitutional amendment or other question submitted to the voters;

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

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

P. “public official” means a person elected to an office in an election covered by the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] or a person appointed to an office that is subject to an election covered by that act;

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

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

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

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

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

- (1) the full name of the political committee, which shall fairly and accurately reflect the identity of the committee, including any sponsoring organization, and its address;
- (2) a statement of the purpose for which the political committee was organized;
- (3) the name, address and relationship of any connected or associated organization or entity;
- (4) the names and addresses of the officers of the committee; and
- (5) an identification of the bank used by the committee for all expenditures or contributions made or received.

C. 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.

#### **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 [12-8-1 to 12-8-25 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.

**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 [1-19-25 to 1-19-36 NMSA 1978] 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 [1-19-25 to 1-19-36 NMSA 1978]; 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.

**1-19-27. Reports required; proper filing officer. (Effective until January 1, 2006.)**

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

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

(1) a statewide elective office;

(2) an elected judicial office in the judicial department, except a magistrate; and

(3) an office representing a district composed of more than one county, except that legislators representing or candidates seeking to represent multicounty districts may file reports of expenditures and contributions or statements of exception with either the secretary of state or with the county clerk in the county in which they reside.

C. The proper filing officer for filing reports of expenditures and contributions or statements of exception is the county clerk for a public official in or a candidate seeking any of the following offices:

(1) an elective county office;

(2) a magistrate; and

(3) a state legislative office elected from a district located wholly within one county.

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

**1-19-27. Reports required; proper filing officer (Effective January 1, 2006.)**

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

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

C. The proper filing officer for filing reports of expenditures and contributions or statements of exception is the secretary of state for all public officials.

D. The secretary of state shall develop or contract for services to develop an electronic reporting system for receiving and for public inspection of reports of expenditures and contributions and statements of exception to the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978]. The electronic reporting system shall:

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

**1-19-27.1, 1-19-27.2. Repealed.****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 exception 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 proper filing officer shall give the candidate the prescribed reporting forms and the schedule of specific dates for filing the required reports or a statement of exception. 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.

**1-19-29. Time and place of filing reports. (Effective until January 1, 2006.)**

A. Annually, all reporting individuals shall file with the proper filing officer by 5:00 p.m. on 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. The report shall be filed annually until the reporting individual's bank account has been closed and the other provisions specified in Subsection E of this section have been satisfied.

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

(1) by 5:00 p.m. on 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;

(2) by 5:00 p.m. on 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. Any contribution or pledge to contribute that is received after 5:00 p.m. on the Tuesday before the election and that is for five hundred dollars (\$500) or more in a legislative or nonstatewide judicial election, or two thousand five hundred dollars (\$2,500) or more in a statewide election, shall be reported to the proper filing officer either in a supplemental report on a prescribed form within twenty-four hours of receipt or in the report to be filed by 5:00 p.m. on 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; and

(3) by 5:00 p.m. on the thirtieth day after a primary, general or statewide special election, a report of all expenditures made and contributions received on or before the twenty-fifth day after the election and not previously reported.

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

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

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

- (1) there are no outstanding campaign debts;
- (2) all money has been expended in accordance with the provisions of Section 1-19-29.1 NMSA 1978; and
- (3) the bank account has been closed.

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

G. A reporting individual who is a candidate within the meaning of the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] because of the amount of contributions he receives or expenditures he makes and who does not ultimately file a declaration of candidacy or a nominating petition with the proper filing officer shall nevertheless file a report, not later than the second Monday in May for a primary election or the second Monday in October for a general election, of all contributions received and expenditures made on or before the first Monday in May for a primary election or the first Monday in October for a general election, and not previously reported.

#### **1 -19-29. Time and place of filing reports. (Effective January 1, 2006.)**

*A. Annually, all reporting individuals shall file with the proper filing officer by 5:00 p.m. on 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. The report shall be filed annually until the reporting individual's bank account has been closed and the other provisions specified in Subsection E of this section have been satisfied.*

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

*(1) by 5:00 p.m. on 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;*

*(2) by 5:00 p.m. on 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. Any contribution or pledge to contribute that is received after 5:00 p.m. on the Tuesday before the election and that is for five hundred dollars (\$500) or more in a legislative or non-statewide judicial election, or two thousand five hundred dollars (\$2,500) or more in a statewide election shall be reported to the proper filing officer either in a supplemental report on a prescribed form within twenty-four hours of receipt or in the report to be filed by 5:00p.m. on 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; and*

*(3) by 5.00 p.m. on the thirtieth day after a primary, general or statewide special election, a report of all expenditures made and contributions received on or before the twenty-fifth day after the election and not previously reported.*

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

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

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

*(1) there are no outstanding campaign debts;*

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

*(3) the bank account has been closed.*

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

*G. A reporting individual who is a candidate within the meaning of the Campaign Reporting Act [1-19-2 5 to 1-19-3 6 NMSA 1978] because of the amount of contributions he receives or expenditures he makes and who does not ultimately file a declaration of candidacy or a nominating petition with the proper filing officer shall nevertheless file a report, not later than the second Monday in May for a primary election or the second Monday in October for a general election, of all contributions received and expenditures made on or before the first Monday in May for a primary election or the first Monday in October for a general election, and not previously reported.*

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

*I. 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.*



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

A. It is unlawful for any candidate or his 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 [11-19-25 to 1-19-36 NMSA 1978];
- (6) donations to a political party 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.

**1-19-30. Repealed.****1-19-31. Contents of report.**

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

- (1) the name and address of the person or entity to whom an expenditure was made or from whom a contribution was received, except as provided for anonymous contributions or contributions received from special events as provided in Section 1-19-34 NMSA 1978; provided that for contributors, the name of the entity or the first and last names of any individual shall be the full name of the entity or individual, and initials only shall not constitute a full name unless that is the complete legal name;
- (2) the occupation or type of business of any person or entity making contributions of two hundred fifty dollars (\$250) or more in the aggregate per election;
- (3) the amount of the expenditure or contribution or value thereof;
- (4) the purpose of the expenditure; and
- (5) the date the expenditure was made or the contribution was received.

B. The report of expenditures and contributions shall be subscribed and sworn to by the candidate or the treasurer of the political committee. If the report of expenditures and contributions is filed in an electronically readable format, the report shall be subscribed and sworn to in an independent affidavit signed by the candidate or the treasurer of the political committee and delivered to the secretary of state within forty-eight hours after the report is electronically filed.

C. Each report shall contain an opening and closing cash balance for the bank account maintained by the reporting individual during the reporting period and the name of the financial institution.

D. Each report shall specify the amount of each unpaid debt and the identity of the person to whom the debt is owed.

#### **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.

#### **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 May 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.

C. A county clerk shall deliver to the secretary of state, within forty-eight hours of the county clerk's receipt, each report of expenditures and contributions or statement of exception filed with the county clerk's office. Within forty-eight hours of receipt of a report of expenditures and contributions or statement of exception filed by a legislative candidate for a multicounty district, the secretary of state shall deliver to each county clerk in the multicounty legislative district a copy of the report or statement filed.

**1-19-33. Exclusion of certain candidates from reporting; statement of exception.**

A. In a year in which a primary, general or special statewide election is held, a person who seeks or considers a public office covered by the Campaign Reporting Act and who anticipates receiving or expending for the election less than one thousand dollars (\$1,000) for a non-statewide office, or two thousand five hundred dollars (\$2,500) for a statewide office, may file, in lieu of filing a report of expenditures and contributions, a statement of exception to that effect before the election on a prescribed form and under penalty of perjury. The statement of exception shall be filed by 5:00 p.m. on the second Monday in May for a primary or special statewide election or by 5:00 p.m. on the second Monday in October for a general or special statewide election. The statement shall be filed with the proper filing officer.

B. Upon the filing of the statement of exception, the candidate shall not be required to file a report of expenditures and contributions except as provided in Subsection D of this section.

C. A statement of exception that is not timely filed or that includes false or incomplete information shall be subject to the notice, penalty and arbitration provisions set forth in Section 1-19-34.4 NMSA 1978.

D. If at any time after filing a statement of exception a candidate receives or expends in an election more than the threshold amounts provided in Subsection A of this section, the candidate shall file reports of expenditures and contributions according to the reporting schedule provided in Section 1-19-29 NMSA 1978.

**1-19-34. Candidates; political committees; treasurer; bank account; anonymous contributions; contributions from special events.**

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

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

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

(3) a separate bank account has been established and all receipts of money contributions and all expenditures of money are deposited in and disbursed from the one bank account maintained by the treasurer in the name of the candidate or political committee; provided that nothing in this section shall prohibit investments from the 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 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 him, 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 may be accepted in excess of 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 fifteen dollars (\$15.00) or less are sold or an event such as a coffee, tea or similar reception.

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

**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.

**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 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.

**1-19-34.3. Contributions in one name given for another prohibited.**

It is unlawful for a person or political committee to make, or a candidate or his agent to accept, a contribution that is reported as coming from one person or entity when the candidate or his agent knows that the contribution is actually from another person or entity that directed that the contribution not be publicly reported.

**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 [1-19-25 to 1-19-36 NMSA 1978] 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 [1-19-25 to 1-19-36 NMSA 1978]. 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 [1-19-25 to 1-19-36 NMSA 1978], Lobbyist Regulation Act [Chapter 2, Article 1 NMSA 1978] or Financial Disclosure Act [10-16A-1 to 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 [44-7-1 to 44-7-22 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.

**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.

**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 [1-19-25 to 1-19-36 NMSA 1978], the secretary of state shall refer the matter to the attorney general or a district attorney for enforcement.

B. The attorney general or district attorney may institute a civil action in district court for any violation of the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] or to prevent a violation of that act that involves an unlawful solicitation or the making or acceptance of an unlawful contribution. An action for relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of two hundred fifty dollars (\$250) for each violation not to exceed five thousand dollars (\$5,000), 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. 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 [1-19-25 to 1-19-36 NMSA 1978] other than that specified in Subsection B of this section. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of fifty dollars (\$50.00) for each violation not to exceed five thousand dollars (\$5,000).

**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 (2) 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 exception or a report of expenditures and contributions contains false or incomplete information or is filed after any deadline imposed by the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978], the responsible reporting individual or political committee, in addition to any other penalties or remedies prescribed by the Election Code [Chapter 1 NMSA 1978], 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 [1-19-25 to 1-19-36 NMSA 1978] for the filing of statements of exception 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, 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 (2) 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 exception shall be deemed timely filed only if it is received by the proper filing officer 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 exception or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] shall not, in addition to any other penalties provided by law:

(1) have his 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 exception or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] 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.

#### **1-19-36. Penalties; criminal enforcement.**

A. Any person who knowingly and willfully violates any provision of the Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] 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 [1-19-25 to 1-19-36 NMSA 1978] 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.

#### **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.