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HOUSE BILL 57

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Mimi Stewart

AN ACT

**RELATING TO ELECTIONS; ENACTING THE SCHOOL BOARD CAMPAIGN
FINANCE REPORTING ACT; ESTABLISHING CAMPAIGN FINANCE REPORTING
REQUIREMENTS FOR SCHOOL BOARD ELECTIONS; PROVIDING PENALTIES.**

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

**Section 1. SHORT TITLE.--This act may be cited as the
"School Board Campaign Finance Reporting Act".**

**Section 2. DEFINITIONS.--As used in the School Board
Campaign Finance Reporting Act:**

**A. "anonymous contribution" means a contribution,
the contributor of which is unknown to the candidate or his
agent who accepts the contribution;**

**B. "candidate" means an individual who has filed a
declaration of candidacy for election to a school board;**

C. "contribution" means a gift, subscription,

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1 loan, advance or deposit of any money or other thing of value,
2 including the estimated value of an in-kind contribution, that
3 is made or received for a political purpose, including payment
4 of a debt incurred in a school board election campaign, but
5 does not include the value of services provided without
6 compensation or unreimbursed travel or other personal expenses
7 of individuals who volunteer a portion or all of their time on
8 behalf of a candidate;

9 D. "expenditure" means a payment, transfer or
10 distribution or obligation or promise to pay, transfer or
11 distribute any money or other thing of value for a school
12 board election, including payment of a debt incurred in an
13 election campaign;

14 E. "political purpose" means influencing or
15 attempting to influence a school board election;

16 F. "proper filing officer" means the county clerk
17 of the county in which the school district is located or, in
18 the case of a multicounty school district, the clerk of the
19 county in which the administrative office of the school
20 district is located;

21 G. "school board" means the local school board of
22 a school district, the governing board of a technical and
23 vocational institute, the governing board of an area
24 vocational institute, a community college board or a branch
25 community college board;

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1 H. "school board election" means any regular or
2 special election for a school board member; and

3 I. "school district" means a school district as
4 defined in the Public School Code, a technical and vocational
5 institute district, an area vocational institute district, a
6 community college district or a branch community college
7 district.

8 Section 3. SCHOOL BOARD CAMPAIGN FINANCE REPORTING
9 REQUIREMENTS. --

10 A. Each candidate who receives contributions or
11 makes expenditures of more than one thousand dollars (\$1,000)
12 in a school board election campaign shall file with the proper
13 filing officer reports of all contributions and expenditures
14 as required by the School Board Campaign Finance Reporting
15 Act.

16 B. The proper filing officer shall provide
17 necessary contribution and expenditure reporting forms to a
18 candidate at the time a declaration of candidacy is filed.
19 The secretary of state shall approve the forms to be used.

20 C. Contribution and expenditure reports shall be
21 filed with the proper filing officer:

22 (1) twenty-five days prior to a school board
23 election;

24 (2) seven days prior to a school board
25 election;

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1 (3) thirty days after a school board
2 election, which shall be the final report unless the campaign
3 account remains open or all contributions are not reported as
4 having been expended in accordance with the provisions of
5 Section 6 of the School Board Campaign Finance Reporting Act;
6 and

7 (4) annually in non-election years on the
8 first Tuesday in February, until the account is reported as
9 closed or all expenditures are reported as having been
10 expended in accordance with Section 6 of the School Board
11 Campaign Finance Reporting Act.

12 D. The contribution and expenditure report due
13 twenty-five days prior to a school board election shall
14 include all contributions received and expenditures made
15 before or on the thirtieth day prior to the election and not
16 previously reported. The report due seven days prior to the
17 election shall include all contributions received and
18 expenditures made before or on the tenth day prior to the
19 election and not previously reported. The report due thirty
20 days after the election shall include all contributions
21 received and expenditures made before or on the twenty-fifth
22 day after the election and not previously reported. The
23 annual report due on the first Tuesday in February in non-
24 election years shall include all contributions received and
25 expenditures made that have not been previously reported.

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1 E. If at any time a candidate receives
2 contributions or makes expenditures in excess of one thousand
3 dollars (\$1,000), the candidate shall file the next scheduled
4 report and each succeeding report.

5 F. A report shall not be deemed timely filed
6 unless it is received by the proper filing officer by 5:00
7 p.m. on the day the report is required to be filed.

8 Section 4. EXCLUSION OF CERTAIN CANDIDATES FROM
9 REPORTING-- STATEMENT OF EXCEPTION. --

10 A. A candidate who anticipates receiving and
11 expending less than one thousand dollars (\$1,000) in a school
12 board election campaign may file, in lieu of filing a report
13 of contributions and expenditures, a statement of exception to
14 that effect on a prescribed form and under penalty of perjury.
15 The statement of exception shall be filed with the proper
16 filing officer at the time of filing a declaration of
17 candidacy.

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

22 C. If at any time after filing a statement of
23 exception a candidate receives or expends in an election more
24 than the one thousand dollar (\$1,000) threshold amount
25 provided in Subsection A of this section, the candidate shall

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1 file reports of contributions and expenditures according to
2 the reporting schedule provided in Section 3 of the School
3 Board Campaign Finance Reporting Act.

4 Section 5. CONTENTS OF REPORT OF CONTRIBUTIONS AND
5 EXPENDITURES-- ANONYMOUS CONTRIBUTION. --

6 A. Each report of contributions and expenditures
7 required by the School Board Campaign Finance Reporting Act
8 shall be typed or printed legibly, or on a computer disc or
9 format approved by the proper filing officer, and shall
10 include:

11 (1) the full name and address of the
12 individual or entity from whom a contribution was received or
13 to whom an expenditure was made, except for an anonymous
14 contribution; provided that for contributors, the name of the
15 entity or the first and last names of any individual shall be
16 the full name of the entity or individual, and initials only
17 shall not constitute a full name of an entity unless that is
18 its complete legal name;

19 (2) the occupation or type of business of any
20 individual or entity making contributions of two hundred fifty
21 dollars (\$250) or more in the aggregate per school board
22 election;

23 (3) the amount of the contribution or
24 expenditure or value thereof;

25 (4) the purpose of the expenditure; and

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1 (5) the date of the contribution or
2 expenditure.

3 B. No anonymous contribution may be accepted in
4 excess of fifty dollars (\$50.00). The aggregate amount of
5 anonymous contributions accepted by a candidate shall not
6 exceed two hundred fifty dollars (\$250) per school board
7 election.

8 C. The report of contributions and expenditures
9 shall be subscribed and sworn to by the candidate. If the
10 report of contributions and expenditures is filed in an
11 electronically readable format, the report shall be subscribed
12 and sworn to by the candidate in an independent affidavit
13 signed by the candidate and filed with the proper filing
14 officer.

15 D. Each report shall contain an opening and
16 closing cash balance for the campaign account.

17 E. Each report shall specify the amount of each
18 unpaid debt and the identity of the person to whom the debt is
19 owed, except that the debts to suppliers of goods and services
20 that are not more than thirty days past due need not be
21 reported.

22 Section 6. LIMITATION ON USE OF CAMPAIGN CONTRIBUTIONS. --
23 It is unlawful for any candidate, elected school board member or
24 the agent of either to make an expenditure of contributions
25 received, except for the following purposes:

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- 1 A. expenditures of the campaign of the candidate;
- 2 B. donations to the campaign of another candidate
- 3 for election to a school board;
- 4 C. donations to the state general fund; or
- 5 D. donations to an organization to which a federal
- 6 income tax deduction would be permitted pursuant to Subparagraph
- 7 (A) of Paragraph (1) of Subsection (b) of Section 170 of the
- 8 Internal Revenue Code of 1986.

9 Section 7. ENFORCEMENT--PENALTIES. --

10 A. Any person who believes a provision of the School

11 Board Campaign Finance Reporting Act has been violated may file

12 a sworn complaint with the proper filing officer. If the proper

13 filing officer reasonably believes a provision of the School

14 Board Campaign Finance Reporting Act has been violated, the

15 proper filing officer shall refer the matter to the district

16 attorney. The School Board Campaign Finance Reporting Act may

17 be enforced by the district attorney in the county where the

18 candidate resides.

19 B. If a campaign contribution or expenditure report

20 is filed late or is incomplete or false, the candidate

21 responsible for it shall, in addition to any other penalties or

22 remedies, be liable for and shall pay to the proper filing

23 officer twenty-five dollars (\$25.00) per day for each regular

24 working day that the required full and complete report is late,

25 up to a maximum of one thousand dollars (\$1,000).

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C. If a candidate who violates the provisions of the School Board Campaign Finance Reporting Act is elected to the school board, that person shall not serve on the school board or participate in school board meetings until the candidate satisfies all reporting requirements of the School Board Campaign Finance Reporting Act and pays all penalties owed. The provisions of this subsection are in addition to any other penalties provided by law.

D. Any person who knowingly and willfully violates a provision of the School Board Campaign Finance 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.