

HOUSE BILL 232

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

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AN ACT

RELATING TO ELECTIONS; ENACTING THE SCHOOL DISTRICT CAMPAIGN
REPORTING ACT; REQUIRING TIMELY REPORTING OF CAMPAIGN
CONTRIBUTIONS AND EXPENDITURES; PROVIDING FOR PENALTIES.

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

SECTION 1. A new section of the Election Code is enacted
to read:

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
"School District Campaign Reporting Act"."

SECTION 2. A new section of the Election Code is enacted
to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the School
District Campaign Reporting Act:

A. "campaign committee" means one or more persons
authorized by a candidate to raise, collect or expend

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1 contributions on the candidate's behalf for the purpose of
2 electing the candidate to office;

3 B. "candidate" means a person who seeks or
4 considers an office in an election covered by the School
5 District Campaign Reporting Act, who either has filed a
6 declaration of candidacy or has received contributions or made
7 expenditures of two hundred dollars (\$200) or more or
8 authorized another person or campaign committee to receive
9 contributions or make expenditures of two hundred dollars
10 (\$200) or more for the purpose of seeking election to a covered
11 office;

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

21 D. "covered office" means the position of board of
22 education member of a school district that has an enrollment of
23 twelve thousand students or more or the position of board
24 member of a community college organized or operating pursuant
25 to the provisions of Chapter 21, Article 13 or Article 16 NMSA

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1 1978;

2 E. "election cycle" means the period beginning
3 thirty days after an election for an office and ending on the
4 subsequent election day for that office;

5 F. "expenditure" means a payment, transfer or
6 distribution or obligation or promise to pay, transfer or
7 distribute any money or other thing of value for a political
8 purpose, including payment of a debt incurred in an election
9 campaign;

10 G. "political purpose" means advocating the
11 election or defeat of a candidate in an election; and

12 H. "prescribed form" means a form or electronic
13 format prepared and prescribed by the secretary of state."

14 SECTION 3. A new section of the Election Code is enacted
15 to read:

16 "[NEW MATERIAL] REPORTS REQUIRED--TIME AND PLACE OF
17 FILING.--

18 A. A candidate or campaign committee that has
19 received contributions or made expenditures of two hundred
20 dollars (\$200) or more shall file with the secretary of state a
21 report of all contributions received and expenditures made on a
22 prescribed form, and the report shall be filed in the same or
23 similar electronic system as that used for the Campaign
24 Reporting Act. Except as otherwise provided in this section,
25 all reports pursuant to the School District Campaign Reporting

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1 Act shall be filed electronically and electronically
2 authenticated by the candidate using an electronic signature in
3 conformance with the Electronic Authentication of Documents Act
4 and the Uniform Electronic Transactions Act.

5 B. A candidate or campaign committee shall file a
6 campaign report of all contributions received and expenditures
7 made during an election cycle and not previously reported by
8 5:00 p.m.:

- 9 (1) on the sixtieth day before the election;
- 10 (2) on the thirtieth day before the election;
- 11 (3) five days before the election; and
- 12 (4) thirty days after the election.

13 C. If a reporting date set by Subsection B of this
14 section falls on a weekend or holiday, the report shall be
15 filed on the next business day.

16 D. If a candidate or campaign committee has not
17 received any contributions and has not made any expenditures
18 since the last report filed with the secretary of state, the
19 candidate or campaign committee shall only be required to file
20 a statement of no activity, which shall not be required to be
21 notarized, in lieu of a full report when that report would
22 otherwise be due.

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

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1 F. Except for candidates and campaign committees
2 that file a statement of no activity, each candidate or
3 campaign committee shall file a report of expenditures and
4 contributions pursuant to the filing schedules set forth in
5 this section, regardless of whether any expenditures were made
6 or contributions were received during the reporting period.
7 Reports shall be required until the candidate or campaign
8 committee delivers a report to the secretary of state stating
9 that:

- 10 (1) there are no outstanding campaign debts;
- 11 (2) all money has been expended in accordance
12 with the provisions of Section 6 of the School District
13 Campaign Reporting Act; and
- 14 (3) the bank account for campaign funds
15 maintained by the candidate or campaign committee has been
16 closed.

17 G. A candidate who does not ultimately file a
18 declaration of candidacy and does not file a statement of no
19 activity shall file reports in accordance with Subsection B of
20 this section.

21 H. A candidate may apply to the secretary of state
22 for exemption from electronic filing in case of hardship, which
23 shall be defined by the secretary of state."

24 SECTION 4. A new section of the Election Code is enacted
25 to read:

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1 "[NEW MATERIAL] CONTENTS OF REPORT.--

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

6 (1) the name and address of the person to whom
7 an expenditure was made or from whom a contribution was
8 received; provided that for contributors, the name of the legal
9 entity or the first and last names of the individual shall be
10 the full name of the legal entity or individual, and initials
11 only shall not constitute a full name unless that is the
12 complete legal name;

13 (2) the occupation and type and name of
14 business, if any, of any person making contributions of two
15 hundred fifty dollars (\$250) or more in the aggregate per
16 election;

17 (3) the amount of the expenditure or
18 contribution or value thereof;

19 (4) the purpose of the expenditure; and

20 (5) the date that the expenditure was made or
21 the contribution was received.

22 B. Each report shall contain an opening and closing
23 cash balance for the bank account maintained for campaign funds
24 by the reporting individual during the reporting period and the
25 name of the financial institution.

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1 C. Each report shall specify the amount of each
2 unpaid debt and the identity of the person to whom the debt is
3 owed."

4 **SECTION 5.** A new section of the Election Code is enacted
5 to read:

6 "[NEW MATERIAL] REPORTS AND STATEMENTS--LATE FILING
7 PENALTY--FAILURE TO FILE.--

8 A. If a statement of no activity or a report of
9 expenditures and contributions contains false or incomplete
10 information or is filed after any deadline imposed by the
11 School District Campaign Reporting Act, the candidate, in
12 addition to any other penalties or remedies prescribed by the
13 Election Code, shall be liable for and shall pay to the
14 secretary of state fifty dollars (\$50.00) per day for each
15 regular working day after the time required by the School
16 District Campaign Reporting Act for the filing of statements of
17 no activity or reports of expenditures and contributions until
18 the complete or true statement or report is filed, up to a
19 maximum of five thousand dollars (\$5,000).

20 B. All sums collected for the penalty shall be
21 deposited in the general fund for credit to the current school
22 fund. A report or statement of exception shall be deemed
23 timely filed only if it is received by the secretary of state
24 by the date and time prescribed by law.

25 C. Any candidate who fails or refuses to file a

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1 report of expenditures and contributions or statement of no
2 activity or to pay a penalty imposed by the secretary of state
3 as required by the School District Campaign Reporting Act shall
4 not, in addition to any other penalties provided by law:

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

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

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

22 SECTION 6. A new section of the Election Code is enacted
23 to read:

24 "[NEW MATERIAL] CAMPAIGN FUNDS--LIMITATIONS ON USE.--It is
25 unlawful for a candidate or the candidate's agent to make an

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1 expenditure of contributions received, except for the following
2 purposes:

- 3 A. expenditures of the campaign;
- 4 B. donations to the state general fund;
- 5 C. donations to an organization to which a federal
6 income tax deduction would be permitted under Subparagraph (A)
7 of Paragraph (1) of Subsection (b) of Section 170 of the
8 Internal Revenue Code of 1986, as amended;

9 D. expenditures to eliminate the campaign debt of
10 the candidate for the office sought or expenditures incurred by
11 the candidate when seeking election to another public office;

12 E. donations to a political committee or to another
13 candidate seeking election to a public office that is subject
14 to the reporting provisions of the School District Campaign
15 Reporting Act or the Campaign Reporting Act; or

16 F. disbursements to return unused funds pro rata to
17 the contributors if no campaign debt exists."

18 SECTION 7. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2013.