

HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 232

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

AN ACT

RELATING TO ELECTIONS; ENACTING THE SCHOOL DISTRICT CAMPAIGN  
REPORTING ACT; REQUIRING REPORTING OF CERTAIN CAMPAIGN  
CONTRIBUTIONS AND EXPENDITURES; PROVIDING COMPLIANCE  
PROCEEDINGS; 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

1 authorized by a candidate to raise, collect or expend  
2 contributions on the candidate's behalf for the purpose of  
3 electing the candidate to office;

4 B. "candidate" means a person who seeks or  
5 considers an office in an election covered by the School  
6 District Campaign Reporting Act, who either has filed a  
7 declaration of candidacy or has received contributions or made  
8 expenditures of five hundred dollars (\$500) or more or  
9 authorized another person or campaign committee to receive  
10 contributions or make expenditures of five hundred dollars  
11 (\$500) or more for the purpose of seeking election to a covered  
12 office;

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

22 D. "covered office" means the position of board of  
23 education member of a school district that has an enrollment of  
24 twelve thousand students or more or the position of board  
25 member of a community college organized or operating pursuant

1 to the provisions of Chapter 21, Article 13 or Article 16 NMSA  
2 1978;

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

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

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

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

15 I. "reporting individual" means a candidate or  
16 treasurer of a campaign committee."

17 SECTION 3. A new section of the Election Code is enacted  
18 to read:

19 "[NEW MATERIAL] REPORTS REQUIRED--TIME AND PLACE OF  
20 FILING.--

21 A. A candidate or campaign committee that has  
22 received contributions or made expenditures of five hundred  
23 dollars (\$500) or more shall file with the secretary of state a  
24 report of all contributions received and expenditures made on a  
25 prescribed form, and the report shall be filed in the same or

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1 similar electronic system as that used for the Campaign  
2 Reporting Act. Except as otherwise provided in this section,  
3 all reports pursuant to the School District Campaign Reporting  
4 Act shall be filed electronically and electronically  
5 authenticated by the candidate using an electronic signature in  
6 conformance with the Electronic Authentication of Documents Act  
7 and the Uniform Electronic Transactions Act.

8 B. A candidate or campaign committee shall file a  
9 campaign report of all contributions received and expenditures  
10 made during an election cycle and not previously reported by  
11 midnight on the second Monday in April.

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

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

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

25 F. Except for candidates and campaign committees

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

9 (1) there are no outstanding campaign debts;

10 (2) all money has been expended in accordance  
 11 with the provisions of Section 6 of the School District  
 12 Campaign Reporting Act; and

13 (3) the bank account for campaign funds  
 14 maintained by the candidate or campaign committee has been  
 15 closed.

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

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

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

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

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

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

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

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

18                   (4) the purpose of the expenditure; and

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

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

25           C. Each report shall specify the amount of each

1 unpaid debt and the identity of the person to whom the debt is  
2 owed."

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

5 "[NEW MATERIAL] ANONYMOUS CONTRIBUTIONS--SPECIAL EVENT  
6 FUNDRAISERS.--

7 A. No anonymous contributions may be accepted in  
8 excess of one hundred dollars (\$100). The aggregate amount of  
9 anonymous contributions received by a candidate in an election  
10 cycle shall not exceed five hundred dollars (\$500).

11 B. Cash contributions received at special events  
12 that are unidentifiable as to a specific contributor but  
13 identifiable as to the special event are not subject to the  
14 anonymous contribution limits provided for in this section so  
15 long as no single special event raises, after expenses, more  
16 than one thousand dollars (\$1,000) in such cash contributions.  
17 For those contributions, due diligence and best efforts shall  
18 be made to disclose on a special prescribed form with the  
19 sponsor, date, place, total amount received, expenses incurred,  
20 estimated number of persons in attendance and other  
21 identifiable factors that describe the special event. For  
22 purposes of this subsection, "special event" means an event  
23 such as a barbecue or similar fundraiser where tickets costing  
24 twenty-five dollars (\$25.00) or less are sold or an event such  
25 as a coffee, tea or similar reception.

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1           C. Any contributions received pursuant to this  
2 section in excess of the limits established in Subsections A  
3 and B of this section shall be donated to the state general  
4 fund or an organization to which a federal income tax deduction  
5 would be available under Subparagraph (A) of Paragraph (1) of  
6 Subsection (b) of Section 170 of the Internal Revenue Code of  
7 1986, as amended."

8           **SECTION 6.** A new section of the Election Code is enacted  
9 to read:

10           "[NEW MATERIAL] VOLUNTARY COMPLIANCE--COMPLAINTS AND  
11 INVESTIGATIONS--ARBITRATION--REFERRALS FOR ENFORCEMENT.--

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

22           B. The secretary of state shall at all times seek  
23 to ensure voluntary compliance with the provisions of the  
24 School District Campaign Reporting Act. If the secretary of  
25 state determines that a provision of that act for which a

1 penalty may be imposed has been violated, the secretary of  
2 state shall by written notice set forth the violation and the  
3 fine imposed and inform the reporting individual that the  
4 individual has ten working days from the date of the letter to  
5 correct the matter and to provide a written explanation, under  
6 penalty of perjury, stating any reason why the violation  
7 occurred. If a timely explanation is filed and the secretary  
8 of state determines that good cause exists to waive the fine  
9 imposed, the secretary of state may by a written notice of  
10 final action partially or fully waive any fine imposed for any  
11 late, incomplete or false report or statement of exception. A  
12 written notice of final action shall be sent by certified mail.

13 C. Upon receipt of the notice of final action, the  
14 person against whom the penalty has been imposed may protest  
15 the secretary of state's determination by submitting on a  
16 prescribed form a written request for binding arbitration to  
17 the secretary of state within ten working days of the date of  
18 the notice of final action. Any fine imposed shall be due and  
19 payable within ten working days of the date of notice of final  
20 action. No additional fine shall accrue pending the issuance  
21 of the arbitration decision. Fines paid pursuant to a notice  
22 of final action that are subsequently reduced or dismissed  
23 shall be reimbursed with interest within ten working days after  
24 the filing of the arbitration decision with the secretary of  
25 state. Interest on the reduced or dismissed portion of the

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1 fine shall be the same as the rate of interest earned by the  
2 secretary of state's escrow account to be established by the  
3 department of finance and administration.

4 D. An arbitration hearing shall be conducted by a  
5 single arbitrator selected within ten days by the person  
6 against whom the penalty has been imposed from a list of five  
7 arbitrators provided by the secretary of state. Neither the  
8 secretary of state nor a person subject to the School District  
9 Campaign Reporting Act, Campaign Reporting Act Lobbyist  
10 Regulation Act or Financial Disclosure Act may serve as an  
11 arbitrator. Arbitrators shall be considered to be independent  
12 contractors, not public officers or employees, and shall not be  
13 paid per diem and mileage.

14 E. The arbitrator shall conduct the hearing within  
15 thirty days of the request for arbitration. The arbitrator may  
16 impose any penalty the secretary of state is authorized to  
17 impose. The arbitrator shall state the reasons for the  
18 arbitrator's decision in a written document that shall be a  
19 public record. The decision shall be final and binding. The  
20 decision shall be issued and filed with the secretary of state  
21 within thirty days of the conclusion of the hearing. Unless  
22 otherwise provided for in this section or by rule or regulation  
23 adopted by the secretary of state, the procedures for the  
24 arbitration shall be governed by the Uniform Arbitration Act.  
25 No arbitrator shall be subject to liability for actions taken

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1 pursuant to this section.

2 F. The secretary of state may refer a matter to the  
3 attorney general or a district attorney for a civil injunction  
4 or other appropriate order or for criminal enforcement."

5 SECTION 7. A new section of the Election Code is enacted  
6 to read:

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

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

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

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

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

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

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

23           **SECTION 8.** A new section of the Election Code is enacted  
24 to read:

25           "[NEW MATERIAL] CAMPAIGN FUNDS--LIMITATIONS ON USE.--It is

1 unlawful for a candidate or the candidate's agent to make an  
2 expenditure of contributions received, except for the following  
3 purposes:

4 A. expenditures of the campaign;

5 B. donations to the state general fund;

6 C. donations to an organization to which a federal  
7 income tax deduction would be permitted under Subparagraph (A)  
8 of Paragraph (1) of Subsection (b) of Section 170 of the  
9 Internal Revenue Code of 1986, as amended;

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

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

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

19 **SECTION 9. EFFECTIVE DATE.**--The effective date of the  
20 provisions of this act is July 1, 2013.