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**HOUSE BILL 79**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**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, loan,**

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1 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 the purpose of influencing or  
4 attempting to influence a school board election.

5 "Contribution" includes payment of a debt incurred in a school  
6 board election campaign, but does not include the value of  
7 services provided without compensation or unreimbursed travel  
8 or other personal expenses of individuals who volunteer a  
9 portion or all of their time on behalf of a candidate;

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

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

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

25 G. "school board election" means any regular or

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1 special election for a school board member; and

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

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

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

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

18 C. Contribution and expenditure reports shall be  
19 filed with the proper filing officer:

- 20 (1) twenty-five days prior to a school board  
21 election;
- 22 (2) seven days prior to a school board  
23 election;
- 24 (3) thirty days after a school board election,  
25 which shall be the final report unless the campaign account

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1 remains open or not all contributions have been reported as  
2 having been expended in accordance with the provisions of  
3 Section 6 of the School Board Campaign Finance Reporting Act;  
4 and

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

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

24 E. If at any time a candidate receives  
25 contributions or makes expenditures in excess of one thousand

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1 dollars (\$1,000), the candidate shall file the next scheduled  
2 report and each succeeding report.

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

6 Section 4. EXCLUSION OF CERTAIN CANDIDATES FROM  
7 REPORTING-- STATEMENT OF EXCEPTION. --

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

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

20 C. If at any time after filing a statement of  
21 exception a candidate receives or expends in an election more  
22 than the one thousand dollar (\$1,000) threshold amount provided  
23 in Subsection A of this section, the candidate shall file  
24 reports of contributions and expenditures according to the  
25 reporting schedule provided in Section 3 of the School Board

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1 Campaign Finance Reporting Act.

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

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

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

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

21 (3) the amount of the contribution or  
22 expenditure or value thereof;

23 (4) the purpose of the expenditure; and

24 (5) the date of the contribution or  
25 expenditure.

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1           B. An anonymous contribution in excess of fifty  
2 dollars (\$50.00) may not be accepted. The aggregate amount of  
3 anonymous contributions accepted by a candidate may not exceed  
4 two hundred fifty dollars (\$250) per school board election. An  
5 anonymous contribution received in excess of the limits  
6 established in this subsection shall be donated to the state  
7 general fund or to an organization to which a federal income  
8 tax deduction would be permitted pursuant to Subparagraph (A)  
9 of Paragraph (1) of Subsection (b) of Section 170 of the  
10 Internal Revenue Code of 1986.

11           C. A report of contributions and expenditures  
12 shall:

13                   (1) be subscribed and sworn to by the  
14 candidate. If the report is filed in an electronically  
15 readable format, the report shall be subscribed and sworn to by  
16 the candidate in an independent affidavit signed by the  
17 candidate and filed with the proper filing officer;

18                   (2) contain an opening and closing cash  
19 balance for the campaign account; and

20                   (3) specify the amount of each unpaid debt and  
21 the identity of the person to whom the debt is owed, except  
22 that the debts to suppliers of goods and services that are not  
23 more than thirty days past due need not be reported.

24           Section 6. LIMITATION ON USE OF CAMPAIGN CONTRIBUTIONS. -- It  
25 is unlawful for a candidate, elected school board member or the

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1 agent of either to make an expenditure of contributions received,  
2 except for the following purposes:

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

11 Section 7. ENFORCEMENT--PENALTIES.--

12 A. A person who believes a provision of the School  
13 Board Campaign Finance Reporting Act has been violated may file a  
14 sworn complaint with the proper filing officer. If the proper  
15 filing officer reasonably believes a provision of the School  
16 Board Campaign Finance Reporting Act has been violated, the  
17 proper filing officer shall refer the matter to the district  
18 attorney. The School Board Campaign Finance Reporting Act may be  
19 enforced by the district attorney in the county where the  
20 candidate resides.

21 B. If a campaign contribution or expenditure report  
22 is filed late or is incomplete or false, the candidate  
23 responsible for it shall, in addition to any other penalties or  
24 remedies, be liable for and shall pay to the proper filing  
25 officer twenty-five dollars (\$25.00) per day for each business

1 day that the required full and complete report is late, up to a  
2 maximum of one thousand dollars (\$1,000).

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

11 D. A person who knowingly and willfully violates a  
12 provision of the School Board Campaign Finance Reporting Act is  
13 guilty of a misdemeanor and shall be punished by a fine of not  
14 more than one thousand dollars (\$1,000) or by imprisonment for  
15 not more than one year or both.

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