

Opinion No. 60-43

March 11, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Honorable I. N. Curtis State Senator Catron County P. O. Box 97 Quemado, New Mexico

QUESTION

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Would an award made by a state senator seeking reelection of two scholarships in two districts in Catron County of \$ 200 each be considered political expenses?

CONCLUSION

No.

OPINION

{*397} **ANALYSIS**

Section 3-10-8, N.M.S.A., 1953 Compilation, reads as follows:

"CANDIDATES -- EXPENSES OF. -- No candidate for any public office at any general or special election shall pay out, expend or contribute in order to secure or aid in securing his election or the election of any other person, or in aid of any political party, in any campaign, any money or other valuable thing amounting in the aggregate, exclusive of traveling and hotel expenses, to more than ten [10] per centum of one [1] year's salary or compensation provided by law for the incumbent of the office which he seeks. Provided, however, that in the case of candidates for the state legislature, both senate and house of representatives, the expenditures, exclusive of traveling and hotel expenses, shall not exceed the sum of one hundred fifty dollars [\$ 150] by any one [1] candidate.

Any contribution for any of the purposes hereinabove set forth, made by the wife, parent, brother, sister, child, aunt, uncle, niece, nephew or cousin of any candidate within the prohibition of this section."

Volume 15A, Words & Phrases, page 420 defines expenses as money actually paid out.

In volume 13 of Words & Phrases, page 315, Webster defines a donation to be "that which is given or bestowed; that which is transferred to another gratuitously, or without

a valuable consideration; a gift; a grant." **Indiana N. & S. Ry. Co. v. City of Attica**, 56 Ind. 477, 486.

The award of these two scholarships in the sum of \$ 200 each to a student who attains the highest grade in each school district under Sec. 3-10-8, N.M.S.A., 1953 Comp. or the definitions herein given cannot be considered political expenses but under the definition of the word "donation" are in fact, donations of money made gratuitously without any political or other considerations. They are charitable gifts to enable students who are qualified and deserving to obtain higher education.

It is therefore our opinion that the awards of these two scholarships in your county are not political expenses, but are donations or gifts without consideration and not made for the purpose of securing or aiding in the securing of the donor's election.

By: Hilario Rubio

Assistant Attorney General