SENATE BILL 298

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO ELECTIONS; INCLUDING CANDIDATES FOR THE OFFICES OF
STATE SENATOR AND STATE REPRESENTATIVE IN THE VOTER ACTION ACT;
PRESCRIBING CAMPAIGN CONTRIBUTION LIMITS FROM SOURCES OTHER
THAN QUALIFIED ELECTORS; ESTABLISHING DISTRIBUTION AMOUNTS FOR
MAJOR PARTY, MINOR PARTY AND UNAFFILIATED CANDIDATES; AMENDING
SECTIONS OF THE VOTER ACTION ACT TO REMOVE REFERENCES TO PUBLIC
REGULATION COMMISSIONER AS AN ELECTED OFFICE AND REPEALING THE
RELATED SESSION LAWS WITH DELAYED EFFECTIVE DATES.

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

SECTION 1. Section 1-19A-2 NMSA 1978 (being Laws 2003,
Chapter 14, Section 2, as amended) is amended to read:

"1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

A. "applicant candidate" means a candidate who is
running for a covered office and who is seeking to be a

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certified candidate in a primary or general election;

B. "certified candidate" means a candidate running for a covered office who chooses to obtain financing pursuant to the Voter Action Act and is certified as a Voter Action Act candidate;

C. "contested" means there are more candidates for a position than the number to be elected to that position;

D. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for the purpose of supporting or opposing the nomination for election or election of a candidate for public office, including payment of a debt incurred in an election campaign and also including a coordinated expenditure, but "contribution" does not include:

(1) a qualifying contribution;

(2) the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate; or

(3) the value of the incidental use of the candidate's personal property, home or business office for campaign purposes;

E. "coordinated expenditure" means an expenditure that is made:
(1) by a person other than a candidate or campaign committee;

(2) at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of such a candidate, campaign committee or political party; and

(3) for the purpose of:

(a) supporting or opposing the nomination or election of a candidate; or

(b) paying for an advertisement that refers to a clearly identified candidate and that is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election in which the candidate is on the ballot;

F. "covered office" means any office of the judicial department subject to statewide elections and the offices of state senator and state representative;

G. "expenditure" means a payment, transfer or distribution of, or a promise to pay, transfer or distribute, any money or other thing of value for the purpose of supporting or opposing the nomination or election of a candidate;

H. "fund" means the public election fund;
I. "qualifying contribution" means a donation of five dollars ($5.00) in the form of cash, a check, a money order or an electronic form of payment, as prescribed by the secretary, and payable to the fund in support of an applicant candidate that is:

(1) made by a voter who is eligible to vote for the covered office that the applicant candidate is seeking;

(2) made during the designated qualifying period and obtained through efforts made with the knowledge and approval of the applicant candidate; and

(3) acknowledged by a receipt that identifies the contributor's name and residential address on forms provided by the bureau of elections and that is signed by the contributor, one copy of which is attached to the list of contributors and sent to the bureau of elections;

J. "qualifying period" means:

(1) for candidates who are seeking public financing for a primary election or for both a primary and a general election, the period beginning October 1 immediately preceding the election year and ending at 5:00 p.m. on the third Tuesday of March of the election year; and

(2) for candidates who are seeking public financing only for a general election, the period beginning January 1 of the election year and ending that year at 5:00 p.m. on the twenty-third day following the primary election for
the office for which the candidate is running; and

K. "secretary" means the secretary of state or the office of the secretary of state."

SECTION 2. Section 1-19A-4 NMSA 1978 (being Laws 2003, Chapter 14, Section 4, as amended) is amended to read:

"1-19A-4. QUALIFYING CONTRIBUTIONS.--
A. Applicant candidates shall obtain qualifying contributions as follows:

(1) for all statewide judicial elective offices, the number of qualifying contributions equal to one-tenth [of one] percent of the number of voters in the state; and

(2) for the [office of public regulation commissioner, the number of] offices of state senator and state representative, one hundred fifty qualifying contributions [equal to one-tenth of one percent of the number of voters in the district of the office for which the candidate is running].

B. Applicant candidates may accept qualifying contributions from persons who become registered within the statutory time frame that would enable [that person] those persons to vote in the primary election.

C. Voters registered as independent are not excluded from making qualifying contributions but shall be registered within the statutory time frame as independent.

D. [No] A payment, gift or anything of value shall
not be given in exchange for a qualifying contribution."

SECTION 3. Section 1-19A-4.1 NMSA 1978 (being Laws 2019, Chapter 175, Section 8) is amended to read:

"1-19A-4.1. ALLOWABLE CONTRIBUTIONS.--

A. An applicant candidate may collect contributions during the sixty days immediately preceding the qualifying period and throughout the qualifying period from qualified electors registered to vote in the state. An applicant candidate shall not accept contributions from any other source.

B. A certified candidate may collect contributions from qualified electors registered to vote in the state. A certified candidate shall not accept contributions from any other source, except as allowed pursuant to Subsection D of this section and Section 1-19A-8 NMSA 1978.

C. Total contributions from a qualified elector to a candidate shall not exceed one hundred dollars ($100) per election cycle.

D. A certified candidate for the office of state senator or state representative may accept contributions of one hundred dollars ($100) or less from any source; provided that in the aggregate the contributions accepted pursuant to this subsection shall not exceed fifty percent of the amount distributed to the candidate in a primary or general election cycle pursuant to Section 1-19A-13 NMSA 1978."

SECTION 4. Section 1-19A-13 NMSA 1978 (being Laws 2003, .218553.2

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Chapter 14, Section 13, as amended) is amended to read:

"1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

A. By September 1 of each odd-numbered year, the secretary shall determine the amount of money to be distributed to each certified candidate for the election cycle ending with the next general election, based on the type of election and the provisions of Subsections B through G of this section.

B. For contested primary elections, the amount of money to be distributed to a certified candidate is equal to the following:

[(1)] for the office of public regulation commissioner, twenty-five cents ($0.25) for each voter of the candidate's party in the district of the office for which the candidate is running, and

[(2)] (1) for the office of justice of the supreme court [and] or judge of the court of appeals, fifteen cents ($0.15) for each voter of the candidate's party in the state;

(2) for the office of state senator:

(a) for a major party candidate, forty thousand dollars ($40,000); and

(b) for a minor party or unaffiliated candidate, seventy percent of the amount distributed to a major party candidate; and

(3) for the office of state representative:
(a) for a major party candidate, twenty-five thousand dollars ($25,000); and

(b) for a minor party or unaffiliated candidate, seventy percent of the amount distributed to a major party candidate.

C. For uncontested primary elections in which another candidate has filed a declaration of candidacy for nomination in another party's primary for the same office and that candidate's primary is contested, the amount of money to be distributed to a certified candidate is equal to twenty percent of the amount specified in Subsection B of this section.

D. For uncontested primary elections in which another candidate has filed a declaration of candidacy for nomination in another party's primary for the same office, but no primary for the office is contested, the amount of money to be distributed to a certified candidate is equal to the average of the amount each candidate would receive pursuant to Subsection B of this section.

E. For contested general elections, the amount of money to be distributed to a certified candidate is equal to the following:

[(1) for the office of public regulation commissioner, twenty-five cents ($.25) for each voter in the district of the office for which the candidate is running, and

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(2) (1) for the office of justice of the supreme court [and] or judge of the court of appeals, fifteen cents ($.15) for each voter in the state;

(2) for the office of state senator:

(a) for a major party candidate, forty thousand dollars ($40,000); and

(b) for a minor party or unaffiliated candidate, seventy percent of the amount distributed to a major party candidate; and

(3) for the office of state representative:

(a) for a major party candidate, twenty-five thousand dollars ($25,000); and

(b) for a minor party or unaffiliated candidate, seventy percent of the amount distributed to a major party candidate.

F. If a general election race that is initially uncontested later becomes contested because of the qualification of a candidate for that race, an amount of money shall be distributed to the certified candidate to make that candidate's distribution amount equal to the amount distributed pursuant to Subsection E of this section.

G. Once the certification for candidates for the primary election has been completed, the secretary shall calculate the total amount of money to be distributed in the primary election cycle, based on the number of certified...
candidates and the allocations specified in this section. The secretary shall also prepare an estimate of the total amount of money that might be distributed in the general election cycle. If the total amount to be distributed in the primary election cycle and the estimated total amount to be distributed in the general election cycle taken together exceed the amount expected to be available in the fund, the secretary shall allocate the amount available between the primary and general election cycles. This allocation shall be based on the ratio of the two total amounts.

H. If the allocation specified in Subsection G of this section is greater than the total amount available for distribution, then the amounts to be distributed to individual candidates, specified in Subsections B through F of this section, shall each be reduced by the same percentage as the reduction by which the total amount needed has been reduced relative to the total amount available.

I. At least every two years [after January 1, 2007], the secretary shall evaluate and modify as necessary the dollar values originally determined by Subsections B through F of this section and shall increase the amounts by the percentage of the preceding two calendar years' increase of the consumer price index for all urban consumers, United States city average for all items, published by the United States department of labor.
J. No money shall be distributed to candidates in judicial retention elections, and except as provided in Subsections C, D and F of this section, no money shall be distributed to a candidate in an uncontested election."

SECTION 5. REPEAL.--Laws 2020, Chapter 9, Sections 10, 11 and 13 are repealed.

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