

1 AN ACT

2 RELATING TO PUBLIC FINANCING OF ELECTIONS; REMOVING SEED
3 MONEY REQUIREMENTS; ALLOWING CERTAIN CONTRIBUTIONS; DEFINING
4 TERMS; CHANGING DISTRIBUTION AND MATCHING FUND PROVISIONS;
5 LIMITING DISTRIBUTION OF FUNDS TO CANDIDATES IN UNCONTESTED
6 RACES; CLARIFYING PENALTY PROVISIONS; AMENDING, REPEALING AND
7 ENACTING SECTIONS OF THE VOTER ACTION ACT.

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

12 "1-19A-1. SHORT TITLE.-- Chapter 1, Article 19A NMSA
13 1978 may be cited as the "Voter Action Act"."

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

16 "1-19A-2. DEFINITIONS.--As used in the Voter Action
17 Act:

18 A. "applicant candidate" means a candidate who is
19 running for a covered office and who is seeking to be a
20 certified candidate in a primary or general election;

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

25 C. "contested election" means an election in which SJC/SB 97
Page 1

1 there are more candidates for a position than the number to
2 be elected to that position;

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

11 (1) a qualifying contribution;

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

16 (3) the value of the incidental use of the
17 candidate's personal property, home or business office for
18 campaign purposes; provided that for each occurrence, the
19 fair market value does not exceed fifty dollars (\$50.00);

20 E. "coordinated expenditure" means an expenditure
21 that is made:

22 (1) by a person other than a candidate or
23 campaign committee;

24 (2) at the request or suggestion of, or in
25 cooperation, consultation or concert with, a candidate,

1 campaign committee or political party or any agent or
2 representative of such a candidate, campaign committee or
3 political party; and

4 (3) for the purpose of:

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

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

13 F. "covered office" means any office of the
14 judicial department subject to statewide elections and the
15 office of public regulation commissioner;

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

21 H. "fund" means the public election fund;

22 I. "qualifying contribution" means a donation of
23 five dollars (\$5.00) in the form of cash or a check or money
24 order payable to the fund in support of an applicant
25 candidate that is:

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

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

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

12 J. "qualifying period" means:

13 (1) for major party applicant candidates for
14 covered offices, the period beginning October 1 immediately
15 preceding the election year and ending at 5:00 p.m. on the
16 third Tuesday of March of the election year; and

17 (2) for independent and minor party
18 candidates, the period beginning January 1 of the election
19 year and ending that year at 5:00 p.m. on the filing date for
20 independent or minor party candidates for the office for
21 which the candidate is running; and

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

24 SECTION 3. Section 1-19A-3 NMSA 1978 (being Laws 2003,
25 Chapter 14, Section 3) is amended to read:

1 "1-19A-3. TERMS OF PARTICIPATION--DECLARATION OF
2 INTENT.--

3 A. A person choosing to obtain financing pursuant
4 to the Voter Action Act shall first file with the secretary a
5 declaration of intent to participate in that act as an
6 applicant candidate for a stated covered office. The
7 declaration of intent shall be filed with the secretary prior
8 to or during the qualifying period according to forms and
9 procedures developed by the secretary.

10 B. To become an applicant candidate and
11 participate in the Voter Action Act, a person shall submit a
12 declaration of intent prior to collecting any qualifying
13 contributions or other contributions and make explicit in the
14 declaration that the candidate has complied with and will
15 continue to comply with that act's contribution and
16 expenditure limits and all other requirements set forth in
17 that act and rules issued by the secretary.

18 C. Except as provided in Subsection D of this
19 section, a person shall not be eligible to become an
20 applicant candidate if the person has accepted contributions
21 totaling more than one hundred dollars (\$100) from any one
22 contributor during the election cycle in which the person is
23 running for office.

24 D. A person who has accepted contributions of more
25 than one hundred dollars (\$100) from any one contributor

1 during the election cycle in which the person decides to run
2 for a covered office is still eligible to become an applicant
3 candidate if:

4 (1) the contributions were for a candidacy
5 for an office other than a covered office and no money was
6 raised for or expended on any campaign-related activity for a
7 covered office during the time those contributions were made;

8 (2) the person does not solicit or accept
9 contributions for a candidacy for an office other than a
10 covered office or for the purpose of supporting or opposing a
11 ballot measure or another candidate after the person declares
12 candidacy for a covered office or becomes an applicant
13 candidate;

14 (3) the person places all campaign account
15 money that was collected before the person became an
16 applicant candidate in a segregated bank account and does not
17 transfer any money into or out of that account for the
18 duration of the person's campaign for a covered office; and

19 (4) the person agrees, that, if elected to
20 the covered office, the person will transfer all money in the
21 campaign account to the public election fund."

22 SECTION 4. Section 1-19A-6 NMSA 1978 (being Laws 2003,
23 Chapter 14, Section 6) is amended to read:

24 "1-19A-6. CERTIFICATION.--

25 A. Upon receipt of a final submittal of qualifying SJC/SB 97
Page 6

1 contributions by an applicant candidate, the secretary shall
2 determine from the applicant candidate's statement whether
3 the applicant candidate has:

4 (1) signed and filed a declaration of intent
5 to obtain financing pursuant to the Voter Action Act in
6 accordance with the requirements of that act;

7 (2) collected and submitted the appropriate
8 number of qualifying contributions after filing a declaration
9 of intent;

10 (3) met the qualifications to be a candidate
11 pursuant to other applicable state election law;

12 (4) complied with contribution and
13 expenditure restrictions; and

14 (5) otherwise met the requirements for
15 obtaining financing pursuant to the Voter Action Act.

16 B. The secretary shall certify applicant
17 candidates complying with the requirements of this section as
18 certified candidates as soon as possible and no later than
19 ten days after final submittal of qualifying contributions
20 and certification as a candidate pursuant to other applicable
21 state election law.

22 C. A certified candidate shall comply with all
23 requirements of the Voter Action Act after certification and
24 throughout the primary election and general election cycles.

25 A certified candidate who accepts public campaign finance

1 funds for the primary election shall comply with all the
2 requirements of the Voter Action Act for the remainder of the
3 election cycle in question, even if the certified candidate
4 decides not to accept such funds for the general election."

5 SECTION 5. Section 1-19A-7 NMSA 1978 (being Laws 2003,
6 Chapter 14, Section 7, as amended) is amended to read:

7 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS
8 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

9 A. All money distributed to a certified candidate
10 shall be used only for that candidate's campaign-related
11 purposes in the election in which the money was distributed.

12 B. Money from the fund received by a candidate
13 shall not be used for:

14 (1) the candidate's personal living expenses
15 or compensation to the candidate or the candidate's spouse,
16 children or stepchildren;

17 (2) a contribution to another campaign of
18 the candidate or a payment to retire debt from another such
19 campaign;

20 (3) a contribution to the campaign of
21 another candidate or to a political party or political
22 committee or to a campaign supporting or opposing a ballot
23 proposition;

24 (4) an expenditure supporting the election
25 of another candidate or the passage or defeat of a ballot

1 proposition or the defeat of any candidate other than an
2 opponent of the participating candidate;

3 (5) payment of any fine levied by a court or
4 the secretary; or

5 (6) any gift or transfer for which
6 compensating value is not received.

7 C. A certified candidate shall return to the fund
8 any amount that is unspent or unencumbered at the time that
9 person ceases to be a candidate before a primary or general
10 election for which the fund money was distributed.

11 D. A certified candidate shall limit total
12 campaign expenditures to the amount of money distributed to
13 that candidate from the fund, money received from a political
14 party pursuant to Section 1-19A-8 NMSA 1978 and contributions
15 collected pursuant to Section 8 of this 2017 act. A
16 certified candidate shall not accept contributions from any
17 other source except the certified candidate's political
18 party, as specified in Section 1-19A-8 NMSA 1978 and
19 contributions collected pursuant to Section 8 of this 2017
20 act.

21 E. A certified candidate that does not remain a
22 candidate in the general election shall, within thirty days
23 after the primary election, transfer to the secretary for
24 deposit in the fund any amount received from the fund, from a
25 political party pursuant to Section 1-19A-8 NMSA 1978 or from

1 private contributors pursuant to Section 8 of this 2017 act
2 that remains unspent or unencumbered by the date of the
3 primary election.

4 F. A certified candidate shall, within thirty days
5 after the general election, transfer to the secretary for
6 deposit in the fund any amount received from the fund, from a
7 political party pursuant to Section 1-19A-8 NMSA 1978 or from
8 private contributors pursuant to Section 8 of this 2017 act
9 that remains unspent or unencumbered by the date of the
10 general election.

11 G. If a certified candidate ceases to be a
12 certified candidate for any reason, the previously certified
13 candidate or candidate's campaign committee shall, within
14 thirty days thereafter, transfer to the secretary for deposit
15 in the fund any amount received from the fund, from a
16 political party pursuant to Section 1-19A-8 NMSA 1978 or from
17 private contributors pursuant to Section 8 of this 2017 act
18 that remains unspent or unencumbered by the date the
19 candidate ceases to be a certified candidate."

20 SECTION 6. Section 1-19A-9 NMSA 1978 (being Laws 2003,
21 Chapter 14, Section 9) is amended to read:

22 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

23 A. The secretary shall publish guidelines
24 outlining permissible campaign-related expenditures and
25 penalties for violations of the Voter Action Act by September

1 1, 2017.

2 B. Applicant candidates shall file a report
3 listing contributions and expenditures with their application
4 for certification.

5 C. Applicant candidates shall file qualifying
6 contributions with the secretary during the qualifying period
7 according to procedures developed by the secretary. In
8 developing these procedures, the secretary shall use existing
9 campaign reporting procedures and deadlines whenever
10 practical.

11 D. Certified candidates shall report all
12 contributions and expenditures according to the campaign
13 reporting schedule specified in the Campaign Reporting Act."

14 SECTION 7. Section 1-19A-10 NMSA 1978 (being Laws 2003,
15 Chapter 14, Section 10, as amended) is amended to read:

16 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

17 A. There is created in the state treasury the
18 "public election fund" solely for the purposes of:

19 (1) financing the election campaigns of
20 certified candidates for covered offices;

21 (2) paying administrative and enforcement
22 costs of the Voter Action Act; and

23 (3) carrying out all other specified
24 provisions of the Voter Action Act.

25 B. The state treasurer shall invest the funds as

1 other state funds are invested, and all income derived from
2 the fund shall be credited directly to the fund. Remaining
3 balances at the end of a fiscal year shall remain in the
4 public election fund and not revert to the general fund.

5 C. Money received from the following sources shall
6 be deposited directly into the fund:

7 (1) qualifying contributions that have been
8 submitted to the secretary;

9 (2) any recurring balance of unspent fund
10 money distributed to a certified candidate who does not
11 remain a candidate through the primary or general election
12 period for which the money was distributed;

13 (3) money that remains unspent or
14 unencumbered by a certified candidate following the date of
15 the primary election;

16 (4) money that remains unspent or
17 unencumbered by a certified candidate following the date of
18 the general election;

19 (5) unspent contributions to a candidate;

20 (6) money distributed to the fund from funds
21 received pursuant to the Uniform Unclaimed Property Act
22 (1995); and

23 (7) money appropriated by the legislature or
24 as otherwise provided by law.

25 D. A subaccount shall be established in the fund,

1 and money in the subaccount shall only be used to pay the
2 costs of carrying out the provisions of the Voter Action Act
3 related to public regulation commission elections.

4 E. Two hundred thousand dollars (\$200,000) per
5 year shall be collected and deposited in the subaccount for
6 public regulation commission elections as follows:

7 (1) one hundred thousand dollars (\$100,000)
8 from inspection and supervision fees collected pursuant to
9 Section 62-8-8 NMSA 1978; and

10 (2) one hundred thousand dollars (\$100,000)
11 from utility and carrier inspection fees collected pursuant
12 to Section 63-7-20 NMSA 1978."

13 SECTION 8. A new section of the Voter Action Act is
14 enacted to read:

15 "ALLOWABLE CONTRIBUTIONS--PROHIBITION ON COORDINATED
16 EXPENDITURES--EXCEPTION.--

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

23 B. A certified candidate may collect contributions
24 from qualified electors registered to vote in the state. A
25 certified candidate shall not accept contributions from any

1 other source, except as allowed pursuant to Section 1-19A-8
2 NMSA 1978.

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

6 SECTION 9. Section 1-19A-13 NMSA 1978 (being Laws 2003,
7 Chapter 14, Section 13, as amended) is amended to read:

8 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

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

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

18 (1) for the office of public regulation
19 commissioner, twenty-five cents (\$.25) for each voter of the
20 candidate's party in the district of the office for which the
21 candidate is running; and

22 (2) for the office of justice of the supreme
23 court and judge of the court of appeals, fifteen cents (\$.15)
24 for each voter of the candidate's party in the state.

25 C. For uncontested primary elections in which

1 another candidate has filed a declaration of candidacy for
2 nomination in another party's primary for the same office,
3 the amount of money to be distributed to a certified
4 candidate is equal to twenty percent of the amount specified
5 in Subsection B of this section.

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

9 (1) for the office of public regulation
10 commissioner, twenty-five cents (\$.25) for each voter in the
11 district of the office for which the candidate is running;
12 and

13 (2) for the office of justice of the supreme
14 court and judge of the court of appeals, fifteen cents (\$.15)
15 for each voter in the state.

16 E. If a general election race that is initially
17 uncontested later becomes contested because of the
18 qualification of an independent or minor party candidate to
19 appear on the ballot for that race, an amount of money shall
20 be distributed to the certified candidate to make that
21 candidate's distribution amount equal to the amount
22 distributed pursuant to Subsection D of this section.

23 F. Once the certification for candidates for the
24 primary election has been completed, the secretary shall
25 calculate the total amount of money to be distributed in the

1 primary election cycle, based on the number of certified
2 candidates and the allocations specified in this section.
3 The secretary shall also prepare an estimate of the total
4 amount of money that might be distributed in the general
5 election cycle. If the total amount to be distributed in the
6 primary election cycle and the estimated total amount to be
7 distributed in the general election cycle taken together
8 exceed the amount expected to be available in the fund, the
9 secretary shall allocate the amount available between the
10 primary and general election cycles. This allocation shall
11 be based on the ratio of the two total amounts.

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

19 H. At least every two years after January 1, 2007,
20 the secretary shall evaluate and modify as necessary the
21 dollar values originally determined by Subsections B through
22 E of this section and shall increase the amounts by the
23 percentage of the preceding two calendar years' increase of
24 the consumer price index for all urban consumers, United
25 States city average for all items, published by the

1 United States department of labor.

2 I. No money shall be distributed to candidates in
3 judicial retention elections."

4 SECTION 10. Section 1-19A-17 NMSA 1978 (being Laws
5 2003, Chapter 14, Section 17) is amended to read:

6 "1-19A-17. PENALTIES.--

7 A. In addition to other penalties that may be
8 applicable, a person who violates a provision of the Voter
9 Action Act is subject to a civil penalty of up to ten
10 thousand dollars (\$10,000) per violation. In addition to a
11 fine, a certified candidate found in violation of that act
12 may be required to return to the fund all amounts distributed
13 to the candidate from the fund. If the secretary makes a
14 determination that a violation of that act has occurred, the
15 secretary shall impose a fine and transmit the finding to the
16 attorney general for criminal prosecution pursuant to
17 Subsection B of this section. In determining whether a
18 certified candidate is in violation of the expenditure limits
19 of that act, the secretary may consider as a mitigating
20 factor any circumstances out of the candidate's control.

21 B. A person who willfully or knowingly violates
22 the provisions of the Voter Action Act or rules of the
23 secretary or knowingly makes a false statement in a report
24 required by that act is guilty of a fourth degree felony and,
25 if the person is a certified candidate, shall return to the

1 fund all money distributed to that candidate."

2 SECTION 11. REPEAL.--Sections 1-19A-5 and 1-19A-14 NMSA
3 1978 (being Laws 2003, Chapter 14, Sections 5 and 14, as
4 amended) are repealed.

5 SECTION 12. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2017. _____

SJC/SB 97
Page 18

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