

AN ACT

RELATING TO ELECTIONS; AMENDING THE VOTER ACTION ACT TO INCLUDE JUDGES ELECTED ON A STATEWIDE BASIS; PROVIDING FOR FUNDING OF THE PUBLIC ELECTION FUND; MAKING AN APPROPRIATION; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 1990, CHAPTER 6, SECTION 19.

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) 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 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 election" means an election in which there are more candidates for a position than the number to be elected to that position;

D. "covered office" means any office of the judicial department subject to statewide elections and the office of public regulation commissioner;

E. "election cycle" means the primary and general elections for the same term of the same covered office, beginning on the day after the last general election for the office and ending with the general election; the primary election cycle begins on the first day of the election cycle and ends on the day of the primary election; the general election begins on the day after the primary election and ends on the day of the general election;

F. "fund" means the public election fund;

G. "noncertified candidate" means either a candidate running for a covered office who does not choose to participate in the Voter Action Act and who is not seeking to be a certified candidate or a candidate who files a declaration of intent to participate but who fails to qualify;

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

(1) made by a registered 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;

I. "qualifying period" means:

(1) for major party applicant candidates for covered offices, 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 independent and minor party candidates, the period beginning February 1 of the election year and ending that year at 5:00 p.m. on the filing date for independent or minor party candidates for the office for which the candidate is running;

J. "secretary" means the secretary of state or the office of the secretary of state; and

K. "seed money" means a contribution raised for the primary purpose of enabling applicant candidates to collect qualifying contributions and petition signatures."

Section 2. Section 1-19A-4 NMSA 1978 (being Laws 2003, Chapter 14, Section 4) 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 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 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 payment, gift or anything of value shall be given in exchange for a qualifying contribution."

Section 3. Section 1-19A-5 NMSA 1978 (being Laws 2003, Chapter 14, Section 5) is amended to read:

"1-19A-5. SEED MONEY.--

A. An applicant candidate may collect seed money from individual donors and political action committees in amounts of no more than one hundred dollars (\$100) per donor or committee. An applicant candidate may contribute an amount of seed money from the applicant candidate's own funds up to the limits specified in Subsection H of this section.

B. An applicant candidate may collect and spend

seed money during the sixty days immediately preceding the qualifying period and throughout the qualifying period.

C. An applicant candidate may not collect seed money from a corporation, association or partnership formed under state law or from labor organizations.

D. An applicant candidate may not collect or spend seed money for any purpose after certification and before the end of the election cycle for which the candidate was certified, but after the election cycle may carry forward to the next election cycle any unspent seed money to be used as seed money.

E. If a certified candidate is defeated or is elected and decides not to run again as an applicant candidate, any unspent seed money shall be forfeited to the fund.

F. After becoming an applicant candidate and prior to certification, an applicant candidate shall not accept contributions, except for seed money or qualifying contributions.

G. An incumbent, other than a public regulation commissioner, elected prior to 2008 who was not an applicant candidate when elected but who files a declaration of intent to become an applicant candidate in accordance with the Voter Action Act may transfer from the applicant candidate's campaign fund for use as seed money up to the limits for

contributions and expenditures specified in Subsection H of this section.

H. An applicant candidate shall limit seed money contributions and expenditures to five thousand dollars (\$5,000)."

Section 4. Section 1-19A-7 NMSA 1978 (being Laws 2003, Chapter 14, Section 7) is amended to read:

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

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

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

C. A certified candidate shall limit total campaign expenditures and debts to the amount of money distributed to that candidate from the fund. A certified candidate shall not accept contributions or loans from any other source except the certified candidate's political party, as specified in Section 1-19A-8 NMSA 1978.

D. A certified candidate shall return to the secretary, within thirty days after the primary election, any amount that is unspent or unencumbered by the date of the

primary election for direct deposit into the fund.

E. A certified candidate shall return to the secretary, within thirty days after the general election, any amount that is unspent or unencumbered by the date of the general election for direct deposit into the fund."

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

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

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

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

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

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

B. The state treasurer shall invest the funds as other state funds are invested, and all income derived from the fund shall be credited directly to the fund. Remaining balances at the end of a fiscal year shall remain in the election fund and not revert to the general fund.

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

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

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

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

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

(5) unspent seed money that cannot be used for any other purpose;

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

(7) money appropriated by the legislature.

D. A subaccount shall be established in the fund, and money in the subaccount shall only be used to pay the costs of carrying out the provisions of the Voter Action Act related to public regulation commission elections.

E. Three hundred thousand dollars (\$300,000) per year shall be collected and deposited in the subaccount for public regulation commission elections as follows:

(1) one hundred thousand dollars (\$100,000) from inspection and supervision fees collected pursuant to

Section 62-8-8 NMSA 1978;

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

(3) one hundred thousand dollars (\$100,000) from the insurance premium tax collected pursuant to Section 59A-6-2 NMSA 1978."

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

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

A. By August 1, 2007, the secretary shall determine the amount of money to be distributed to each certified candidate for the election cycle ending with the general election in 2008, based on the type of election and the provisions of Subsections B through F 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 (\$.25) for each voter of the candidate's party in the district of the office for which the candidate is running; and

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

C. For uncontested primary elections, the amount of money to be distributed to a certified candidate is equal to fifty percent of the amount specified in Subsection B of this section.

D. 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

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

E. For uncontested general elections, except as provided in Subsection I of this section, the amount of money to be distributed to a certified candidate is equal to fifty percent of the amount specified in Subsection D of this section. If a general election race that is initially uncontested later becomes contested because of the qualification of an independent or minor party candidate to appear on the ballot for that race, an additional amount of money shall be distributed to the certified candidate to make that candidate's total distribution amount equal to the amount distributed pursuant to Subsection D of this section.

F. 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 increase the total amount by twenty percent to provide funds for additional matching funds in the primary election. The secretary shall also prepare an estimate of the total amount of money that might be distributed in the general election cycle. This estimate shall be increased by twenty percent to provide funds for additional matching funds in the general election. If the total amount to be distributed in the primary election cycle, plus the added twenty percent and the estimated total amount to be distributed in the general election cycle, plus the added twenty percent, all 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.

G. If the allocation specified in Subsection F 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 E 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.

H. 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 E of this section and shall consider and account for inflation in the evaluations.

I. No money shall be distributed to candidates in judicial retention elections. No money shall be distributed to judicial candidates in uncontested general elections, provided that if a general election race that is initially uncontested later becomes contested, the certified judicial candidate shall receive a distribution in accordance with Subsection D of this section."

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

"1-19A-14. MATCHING FUNDS.--When a certified or noncertified candidate has one or more opponents who are certified candidates and the candidate's campaign finance report or group of reports shows that the sum of the candidate's expenditures and obligations made, or funds raised or borrowed, whichever is greater, alone or in conjunction with expenditures made independently of the candidate to influence the election on behalf of the candidate, exceeds the amount distributed to an opposing certified candidate, the secretary shall issue immediately to any opposing certified

candidate an additional amount equivalent to the excess amount reported by the opposing candidate. Total matching funds to a certified candidate in an election are limited to twice the amount originally distributed to that candidate pursuant to Section 1-19A-13 NMSA 1978."

Section 8. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--PUBLIC ELECTION FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the public election fund from the amount deposited pursuant to the provisions of Section 7-8A-13 NMSA 1978 in the amount of one hundred thousand dollars (\$100,000) per month during fiscal year 2008 and subsequent fiscal years."

Section 9. Section 7-1-6.1 NMSA 1978 (being Laws 1983, Chapter 211, Section 6, as amended by Laws 1990, Chapter 6, Section 19 and by Laws 1990, Chapter 86, Section 3) is amended to read:

"7-1-6.1. IDENTIFICATION OF MONEY IN TAX ADMINISTRATION SUSPENSE FUND--DISTRIBUTION.--After the necessary disbursements have been made from the tax administration suspense fund, the money remaining, except for remittances received within the previous sixty days that are unidentified as to source or disposition, in the suspense fund as of the last day of the month shall be identified by tax source and distributed or transferred in accordance with the applicable

provisions of the Tax Administration Act. After the necessary distributions and transfers, any balance shall be distributed to the general fund."

Section 10. Section 7-8A-13 NMSA 1978 (being Laws 1997, Chapter 25, Section 13) is amended to read:

"7-8A-13. DEPOSIT OF FUNDS.--

A. Except as otherwise provided by this section, the administrator shall promptly deposit in the tax administration suspense fund for distribution pursuant to the provisions of the Tax Administration Act all money received under the Uniform Unclaimed Property Act (1995), including the proceeds from the sale of abandoned property under Section 7-8A-12 NMSA 1978. The administrator shall retain in the unclaimed property fund at least one hundred thousand dollars (\$100,000) for the purposes of the Uniform Unclaimed Property Act (1995), from which the administrator shall pay claims duly allowed. The administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or annuity listed in the report of an insurance company, its number, the name of the company and the amount due.

B. Before making a deposit to the tax administration suspense fund, the administrator may deduct:

(1) expenses of sale of abandoned property;  
(2) costs of mailing and publication in connection with abandoned property;  
(3) reasonable service charges; and  
(4) expenses incurred in examining records of holders of property and in collecting the property from those holders."

Section 11. REPEAL.--Laws 1990, Chapter 6, Section 19 is repealed.

~~Section 12. CONTINGENT EFFECTIVE DATE.--The provisions of this act shall become effective upon certification by the secretary of state that the constitution of New Mexico has been amended no later than December 31, 2008 as proposed by a joint resolution of the legislature that amends Article 6, Section 33 of the constitution of New Mexico to abolish nonpartisan retention elections for justices of the supreme court and judges of the court of appeals and to require those justices and judges to be elected to their positions in partisan elections.~~