

1 SENATE BILL 16

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Peter Wirth

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8 FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

9
10 AN ACT

11 RELATING TO PUBLIC FINANCING OF ELECTIONS; REMOVING SEED MONEY
12 REQUIREMENTS; ALLOWING CERTAIN CONTRIBUTIONS; CHANGING
13 DISTRIBUTION AND MATCHING FUND AMOUNTS; CLARIFYING PENALTY
14 PROVISIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE
15 VOTER ACTION ACT.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "1-19A-1. SHORT TITLE.--~~[Sections 1 through 17 of this~~
21 ~~act]~~ Chapter 1, Article 19A NMSA 1978 may be cited as the
22 "Voter Action Act"."

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

25 "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

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

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

8 C. "contested election" means an election in which
9 there are more candidates for a position than the number to be
10 elected to that position;

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

14 E. "election cycle" means the primary and general
15 elections for the same term of the same covered office,
16 beginning on the day after the last general election for the
17 office and ending with the general election; the primary
18 election cycle begins on the first day of the election cycle
19 and ends on the day of the primary election; the general
20 election begins on the day after the primary election and ends
21 on the day of the general election;

22 F. "fund" means the public election fund;

23 ~~G. "noncertified candidate" means either a~~
24 ~~candidate running for a covered office who does not choose to~~
25 ~~participate in the Voter Action Act and who is not seeking to~~

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1 ~~be a certified candidate or a candidate who files a declaration~~
2 ~~of intent to participate but who fails to qualify;~~

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

7 (1) made by a [~~registered~~] voter who is
8 eligible to vote for the covered office that the applicant
9 candidate is seeking;

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

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

18 [~~F.]~~ H. "qualifying period" means:

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

23 (2) for independent and minor party
24 candidates, the period beginning [~~February~~] January 1 of the
25 election year and ending that year at 5:00 p.m. on the filing

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1 date for independent or minor party candidates for the office
2 for which the candidate is running; and

3 ~~[J.]~~ I. "secretary" means the secretary of state or
4 the office of the secretary of state [~~and~~

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

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

10 "1-19A-3. TERMS OF PARTICIPATION--DECLARATION OF
11 INTENT.--

12 A. A [~~candidate~~] person choosing to obtain
13 financing pursuant to the Voter Action Act shall first file
14 with the secretary a declaration of intent to participate in
15 that act as an applicant candidate for a stated covered office.
16 The declaration of intent shall be filed with the secretary
17 prior to or during the qualifying period according to forms and
18 procedures developed by the secretary.

19 B. To become an applicant candidate [~~choosing to~~]
20 and participate in the Voter Action Act, a person shall submit
21 a declaration of intent prior to collecting any qualifying
22 contributions or other contributions and make explicit in the
23 declaration that the candidate has complied with and will
24 continue to comply with that act's contribution and expenditure
25 limits and all other requirements set forth in that act and

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1 rules issued by the secretary.

2 C. A ~~[candidate]~~ person shall not be eligible to
3 become an applicant candidate if the ~~[candidate]~~ person has
4 accepted contributions totaling ~~[five hundred dollars (\$500) or~~
5 ~~more or made expenditures totaling five hundred dollars (\$500)~~
6 ~~or more between the beginning of the qualifying period and~~
7 ~~filing a declaration of intent]~~ more than one hundred dollars
8 (\$100) from any one contributor during the election cycle in
9 which the person is running for office."

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

12 "1-19A-6. CERTIFICATION.--

13 A. Upon receipt of a final submittal of qualifying
14 contributions by an applicant candidate, the secretary shall
15 determine whether the applicant candidate has:

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

19 (2) collected and submitted the appropriate
20 number of qualifying contributions after filing a declaration
21 of intent;

22 (3) ~~[qualified as]~~ the qualifications to be a
23 candidate pursuant to other applicable state election law;

24 (4) complied with ~~[seed money]~~ contribution
25 and expenditure restrictions; and

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

3 B. The secretary shall certify applicant candidates
4 complying with the requirements of this section as certified
5 candidates as soon as possible and no later than ten days after
6 final submittal of qualifying contributions and certification
7 as a candidate pursuant to other applicable state election law.

8 C. A certified candidate shall comply with all
9 requirements of the Voter Action Act after certification and
10 throughout the primary election and general election cycles. A
11 certified candidate who accepts public campaign finance funds
12 for the primary election shall comply with all the requirements
13 of the Voter Action Act for the remainder of the election cycle
14 in question, even if ~~[he]~~ the certified candidate decides not
15 to accept such funds for the general election."

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

18 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS
19 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

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

23 B. A certified candidate shall return to the fund
24 any amount that is unspent or unencumbered at the time that
25 person ceases to be a candidate before a primary or general

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1 election for which the fund money was distributed.

2 C. A certified candidate shall limit total campaign
3 expenditures and debts to the amount of money distributed to
4 that candidate from the fund, money received from a political
5 party pursuant to Section 1-19A-8 NMSA 1978 and contributions
6 collected pursuant to Section 8 of this 2013 act. A certified
7 candidate shall not accept contributions or loans from any
8 other source except the certified candidate's political party,
9 as specified in Section 1-19A-8 NMSA 1978 and contributions
10 collected pursuant to Section 8 of this 2013 act.

11 D. A certified candidate shall [~~return to the~~
12 ~~secretary~~], within thirty days after the primary election, [~~any~~
13 ~~amount that is~~] transfer to the secretary for deposit in the
14 fund any amount received from the fund, from a political party
15 pursuant to Section 1-19A-8 NMSA 1978 or from private
16 contributors pursuant to Section 8 of this 2013 act that
17 remains unspent or unencumbered by the date of the primary
18 election [~~for direct deposit into the fund~~].

19 E. A certified candidate shall [~~return to the~~
20 ~~secretary~~], within thirty days after the general election, [~~any~~
21 ~~amount that is~~] transfer to the secretary for deposit in the
22 fund any amount received from the fund, from a political party
23 pursuant to Section 1-19A-8 NMSA 1978 or from private
24 contributors pursuant to Section 8 of this 2013 act that
25 remains unspent or unencumbered by the date of the general

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1 election [~~for direct deposit into the fund~~].

2 F. If a certified candidate withdraws his or her
3 candidacy or otherwise ceases to be a certified candidate, the
4 candidate shall, within thirty days thereafter, transfer to the
5 secretary for deposit in the fund any amount received from the
6 fund, from a political party pursuant to Section 1-19A-8 NMSA
7 1978 or from private contributors pursuant to Section 8 of this
8 2013 act that remains unspent or unencumbered by the date
9 the candidate withdraws or otherwise ceases to be a certified
10 candidate."

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

13 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

14 A. The secretary shall publish guidelines outlining
15 permissible campaign-related expenditures and penalties for
16 violations of the Voter Action Act by January 1, 2014.

17 B. Applicant candidates shall file a report listing
18 [~~seed money~~] contributions and expenditures with their
19 application for certification.

20 C. Applicant candidates shall file qualifying
21 contributions with the secretary during the qualifying period
22 according to procedures developed by the secretary. In
23 developing these procedures, the secretary shall use existing
24 campaign reporting procedures and deadlines whenever practical.

25 D. Certified candidates shall report all

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1 contributions and expenditures according to the campaign
2 reporting [~~requirements~~] schedule specified in the [~~Election~~
3 Code] Campaign Reporting Act.

4 ~~[E.— In addition to the campaign contribution and~~
5 ~~expenditure reports specified in the Election Code, all~~
6 ~~noncertified candidates who have as an opponent a certified~~
7 ~~candidate shall report to the secretary ten days before the~~
8 ~~primary and general elections the amount of money spent by that~~
9 ~~noncertified candidate. This report shall include all~~
10 ~~previously unreported transactions through 5:00 p.m. two days~~
11 ~~before the report is due.~~

12 ~~F.— A person or political committee that makes~~
13 ~~expenditures to influence a race involving a certified~~
14 ~~candidate shall report to the secretary the amount that person~~
15 ~~or political committee has spent. These reports shall include~~
16 ~~all previously unreported transactions through 5:00 p.m. two~~
17 ~~days before the report is due, and shall be submitted as~~
18 ~~follows:~~

19 ~~(1) for the primary election, by 5:00 p.m. on~~
20 ~~the second Monday in May, by 5:00 p.m. on the eleventh day~~
21 ~~before the election and by 5:00 p.m. on the Thursday before the~~
22 ~~election; and~~

23 ~~(2) for the general election, by 5:00 p.m. the~~
24 ~~first Tuesday in October, by 5:00 p.m. on the eleventh day~~
25 ~~before the election and by 5:00 p.m. on the Thursday before the~~

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1 ~~election.]"~~

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

4 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

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

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

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

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

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

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

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

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

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

7 (5) unspent [~~seed money that cannot be used~~
8 ~~for any other purpose~~] contributions to a candidate;

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

12 (7) money appropriated by the legislature.

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

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

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

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

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

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

6 "[NEW MATERIAL] ALLOWABLE CONTRIBUTIONS.--

7 A. An applicant candidate may collect contributions
8 during the sixty days immediately preceding the qualifying
9 period and throughout the qualifying period from qualified
10 electors registered to vote in the candidate's district. An
11 applicant candidate shall not accept contributions from any
12 other source.

13 B. A certified candidate may collect contributions
14 from qualified electors registered to vote in the candidate's
15 district. A certified candidate shall not accept contributions
16 from any other source except as allowed pursuant to Section
17 1-19A-8 NMSA 1978.

18 C. A contribution to a candidate may not exceed one
19 hundred dollars (\$100) per donor per election cycle."

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

22 "1-19A-14. MATCHING FUNDS.--~~[When a certified or~~
23 ~~noncertified candidate has one or more opponents who are~~
24 ~~certified candidates and the candidate's campaign finance~~
25 ~~report or group of reports shows that the sum of the~~

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1 ~~candidate's expenditures and obligations made, or funds raised~~
2 ~~or borrowed, whichever is greater, alone or in conjunction with~~
3 ~~expenditures made independently of the candidate to influence~~
4 ~~the election on behalf of the candidate, exceeds the amount~~
5 ~~distributed to an opposing certified candidate, the secretary~~
6 ~~shall issue immediately to any opposing certified candidate an~~
7 ~~additional amount equivalent to the excess amount reported by~~
8 ~~the opposing candidate. Total matching funds to a certified~~
9 ~~candidate in an election are limited to twice the amount~~
10 ~~originally distributed to that candidate pursuant to Section~~
11 ~~1-19A-13 NMSA 1978.]~~

12 A. After the initial distribution pursuant to
13 Section 1-19A-13 NMSA 1978, the secretary shall distribute
14 matching funds from the fund to a certified candidate in an
15 amount equal to four times the amount of contributions that the
16 candidate collected as an applicant candidate and as a
17 certified candidate, subject to the limitation in Subsection B
18 of this section. Matching funds shall be distributed within
19 three days after the certified candidate has filed a campaign
20 report required by the Campaign Reporting Act that indicates
21 that the candidate has collected contributions in accordance
22 with the provisions of Section 8 of this 2013 act.

23 B. The amount of all public money distributed to a
24 certified candidate in an election is limited to three times
25 the amount of the initial distribution allowed for that

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1 candidate pursuant to Section 1-19A-13 NMSA 1978.

2 C. No matching funds shall be distributed to a
3 candidate in an uncontested election."

4 SECTION 10. Section 1-19A-17 NMSA 1978 (being Laws 2003,
5 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 thousand
10 dollars (\$10,000) per violation. In addition to a fine, a
11 certified candidate found in violation of that act may be
12 required to return to the fund all amounts distributed to the
13 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 [~~of~~] and transmit the finding to
16 the 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 factor
20 any circumstances out of the candidate's control.

21 B. A person who willfully or knowingly violates the
22 provisions of the Voter Action Act or rules of the secretary or
23 knowingly makes a false statement in a report required by that
24 act, including reports required by the Campaign Reporting Act,
25 is guilty of a fourth degree felony and, if [~~he~~] the person is

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1 a certified candidate, shall return to the fund all money
2 distributed to that candidate."

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

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