

1 SENATE BILL 268

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO PUBLIC FINANCING OF ELECTIONS; INCLUDING CANDIDATES
12 FOR THE OFFICES OF SENATOR AND REPRESENTATIVE IN THE VOTER
13 ACTION ACT; AMENDING SECTIONS OF THE VOTER ACTION ACT.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

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

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

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

3 D. "contribution" means a gift, subscription, loan,
4 advance or deposit of money or other thing of value, including
5 the estimated value of an in-kind contribution, that is made or
6 received for the purpose of supporting or opposing the
7 nomination for election or election of a candidate for public
8 office, including payment of a debt incurred in an election
9 campaign and also including a coordinated expenditure, but
10 "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 expenses
14 of individuals who volunteer a portion or all of their time on
15 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;

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

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

23 (2) at the request or suggestion of, or in
24 cooperation, consultation or concert with, a candidate,
25 campaign committee or political party or any agent or

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

3 (3) for the purpose of:

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

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

12 F. "covered office" means any office of the
13 judicial department subject to statewide elections and the
14 [~~office~~] offices of public regulation commissioner, senator and
15 representative;

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 supporting
19 or opposing the nomination or election of a candidate;

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

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

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

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

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

11 J. "qualifying period" means:

12 (1) for candidates who are seeking public
13 financing for a primary election or for both a primary and a
14 general election, 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 candidates who are seeking public
18 financing only for a general election, the period beginning
19 January 1 of the election year and ending that year at 5:00
20 p.m. on the twenty-third day following the primary election for
21 the office for 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 2.** Section 1-19A-4 NMSA 1978 (being Laws 2003,
25 Chapter 14, Section 4, as amended) is amended to read:

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1 "1-19A-4. QUALIFYING CONTRIBUTIONS.--

2 A. Applicant candidates shall obtain qualifying
3 contributions as follows:

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

8 (2) for the office of public regulation
9 commissioner, senator or representative, the number of
10 qualifying contributions equal to one-tenth [~~of one~~] percent of
11 the number of voters in the district of the office for which
12 the candidate is running.

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

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

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

22 SECTION 3. Section 1-19A-13 NMSA 1978 (being Laws 2003,
23 Chapter 14, Section 13, as amended) is amended to read:

24 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

25 A. By September 1 of each odd-numbered year, the

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1 secretary shall determine the amount of money to be distributed
2 to each certified candidate for the election cycle ending with
3 the next general election, based on the type of election and
4 the provisions of Subsections B through G of this section.

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

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

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

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

22 D. For uncontested primary elections in which
23 another candidate has filed a declaration of candidacy for
24 nomination in another party's primary for the same office, but
25 no primary for the office is contested, the amount of money to

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1 be distributed to a certified candidate is equal to the average
2 of the amount each candidate would receive pursuant to
3 Subsection B of this section.

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

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

11 (2) for the office of justice of the supreme
12 court [~~and~~] or judge of the court of appeals, fifteen cents
13 (\$.15) for each voter in the state.

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

20 G. Once the certification for candidates for the
21 primary election has been completed, the secretary shall
22 calculate the total amount of money to be distributed in the
23 primary election cycle, based on the number of certified
24 candidates and the allocations specified in this section. The
25 secretary shall also prepare an estimate of the total amount of

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1 money that might be distributed in the general election cycle.
2 If the total amount to be distributed in the primary election
3 cycle and the estimated total amount to be distributed in the
4 general election cycle taken together exceed the amount
5 expected to be available in the fund, the secretary shall
6 allocate the amount available between the primary and general
7 election cycles. This allocation shall be based on the ratio
8 of the two total amounts.

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

16 I. At least every two years [~~after January 1,~~
17 ~~2007~~], the secretary shall evaluate and modify as necessary the
18 dollar values originally determined by Subsections B through F
19 of this section and shall increase the amounts by the
20 percentage of the preceding two calendar years' increase of the
21 consumer price index for all urban consumers, United States
22 city average for all items, published by the United States
23 department of labor.

24 J. No money shall be distributed to candidates in
25 judicial retention elections, and except as provided in

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1 Subsections C, D and F of this section, no money shall be
2 distributed to a candidate in an uncontested election."

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