

1 SENATE BILL 160  
2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY  
4 Katy Duhigg and Peter Wirth  
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10 AN ACT  
11 RELATING TO ELECTIONS; INCLUDING CANDIDATES FOR THE OFFICE OF  
12 DISTRICT JUDGE IN THE VOTER ACTION ACT; PRESCRIBING  
13 DISTRIBUTION AMOUNTS BASED ON THE NUMBER OF REGISTERED VOTERS  
14 IN A DISTRICT; MAKING CONFORMING CHANGES; AMENDING AND  
15 REPEALING SECTIONS OF THE VOTER ACTION ACT.  
16

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

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

20 "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

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

24 B. "certified candidate" means a candidate running  
25 for a covered office who chooses to obtain financing pursuant

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1 to the Voter Action Act and is certified as a Voter Action Act  
2 candidate;

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

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

13 (1) a qualifying contribution;

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

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

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

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

25 (2) at the request or suggestion of, or in

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1 cooperation, consultation or concert with, a candidate,  
2 campaign committee or political party or any agent or  
3 representative of such a candidate, campaign committee or  
4 political party; and

5 (3) for the purpose of:

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

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

14 F. "covered office" means any office of the  
15 judicial department subject to statewide elections and the  
16 office of [~~public regulation commissioner~~] district judge;

17 G. "expenditure" means a payment, transfer or  
18 distribution of, or a promise to pay, transfer or distribute,  
19 any money or other thing of value for the purpose of supporting  
20 or opposing the nomination or election of a 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, a check, a money  
24 order or an electronic form of payment, as prescribed by the  
25 secretary, and payable to the fund in support of an applicant

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1 candidate that is:

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

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

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

12 J. "qualifying period" means:

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

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

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

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

2 "1-19A-4. QUALIFYING CONTRIBUTIONS.--

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

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

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

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

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

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

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

25 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

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

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

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

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

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

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

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

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

25                   (4) money that remains unspent or unencumbered

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1 by a certified candidate following the date of the general  
2 election;

3 (5) unspent contributions to a candidate;

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

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

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

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

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

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

22 SECTION 4. 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, twenty-five cents (\$.25)]~~ district judge, for  
10 each voter of the candidate's party in the district of the  
11 office for which the candidate is running:

12 (a) fifteen cents (\$.15) in a district  
13 with four hundred thousand or more registered voters;

14 (b) twenty-five cents (\$.25) in a  
15 district with two hundred thousand or more but fewer than four  
16 hundred thousand registered voters;

17 (c) forty cents (\$.40) in a district  
18 with one hundred thousand or more but fewer than two hundred  
19 thousand registered voters; and

20 (d) fifty-five cents (\$.55) in a  
21 district with fewer than one hundred thousand registered  
22 voters; and

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

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

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

15 E. For contested general 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)] district judge, for  
20 each voter in the district of the office for which the  
21 candidate is running:~~

22 (a) fifteen cents (\$.15) in a district  
23 with four hundred thousand or more registered voters;

24 (b) twenty-five cents (\$.25) in a  
25 district with two hundred thousand or more but fewer than four

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1 hundred thousand registered voters;

2 (c) forty cents (\$.40) in a district  
3 with one hundred thousand or more but fewer than two hundred  
4 thousand registered voters; and

5 (d) fifty-five cents (\$.55) in a  
6 district with fewer than one hundred thousand registered  
7 voters; and

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

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

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

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

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

13 I. At least every two years [~~after January 1,~~  
14 2007], the secretary shall evaluate and modify as necessary the  
15 dollar values originally determined by Subsections B through F  
16 of this section and shall increase the amounts by the  
17 percentage of the preceding two calendar years' increase of the  
18 consumer price index for all urban consumers, United States  
19 city average for all items, published by the United States  
20 department of labor.

21 J. No money shall be distributed to candidates in  
22 judicial retention elections, and except as provided in  
23 Subsections C, D and F of this section, no money shall be  
24 distributed to a candidate in an uncontested election."

25 SECTION 5. REPEAL.--Laws 2020, Chapter 9, Sections 10

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through 13 are repealed.

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