

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
13 NMSA 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" means there are more candidates for

1 a position than the number to be elected to that position;

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

10 (1) a qualifying contribution;

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

15 (3) the value of the incidental use of the
16 candidate's personal property, home or business office for
17 campaign purposes;

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

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

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

1 political party; and

2 (3) for the purpose of:

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

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

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

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

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

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

25 (1) made by a voter who is eligible to vote

1 for the covered office that the applicant candidate is
2 seeking;

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

6 (3) acknowledged by a receipt that
7 identifies the contributor's name and residential address on
8 forms provided by the bureau of elections and that is signed
9 by the contributor, one copy of which is attached to the list
10 of 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
20 5:00 p.m. on the twenty-third day following the primary
21 election for the office for which the candidate is running;
22 and

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

25 SECTION 3. Section 1-19A-3 NMSA 1978 (being Laws 2003,

1 Chapter 14, Section 3) is amended to read:

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

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

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

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

25 D. A person who has accepted contributions of more

1 than one hundred dollars (\$100) from any one contributor
2 during the election cycle in which the person decides to run
3 for a covered office is still eligible to become an applicant
4 candidate if:

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

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

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

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

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

25 "1-19A-6. CERTIFICATION.--

1 A. Upon receipt of a final submittal of qualifying
2 contributions by an applicant candidate, the secretary shall
3 determine from the applicant candidate's statement whether
4 the applicant candidate has:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (4) an expenditure supporting the election

1 of another candidate or the passage or defeat of a ballot
2 proposition or the defeat of any candidate other than an
3 opponent of the certified candidate; provided that a
4 certified candidate may purchase joint advertisements or
5 services with other certified candidates;

6 (5) payment of a fine levied by a court or
7 the secretary; or

8 (6) a gift or transfer for which
9 compensating value is not received.

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

14 D. A certified candidate shall limit total
15 campaign expenditures to the amount of money distributed to
16 that candidate from the fund, money received from a political
17 party pursuant to Section 1-19A-8 NMSA 1978 and contributions
18 collected pursuant to Section 8 of this 2019 act. A
19 certified candidate shall not accept contributions from any
20 other source except the certified candidate's political
21 party, as specified in Section 1-19A-8 NMSA 1978 and
22 contributions collected pursuant to Section 8 of this 2019
23 act.

24 E. A certified candidate who does not remain a
25 candidate in the general election shall, within thirty days

1 after the primary election, transfer to the secretary for
2 deposit in the fund any amount received from the fund, from a
3 political party pursuant to Section 1-19A-8 NMSA 1978 or from
4 private contributors pursuant to Section 8 of this 2019 act
5 that remains unspent or unencumbered by the date of the
6 primary election.

7 F. A certified candidate shall, within thirty days
8 after the general election, transfer to the secretary for
9 deposit in the fund any amount received from the fund, from a
10 political party pursuant to Section 1-19A-8 NMSA 1978 or from
11 private contributors pursuant to Section 8 of this 2019 act
12 that remains unspent or unencumbered by the date of the
13 general election.

14 G. If a certified candidate ceases to be a
15 certified candidate for any reason, the previously certified
16 candidate or candidate's campaign committee shall, within
17 thirty days thereafter, transfer to the secretary for deposit
18 in the fund any amount received from the fund, from a
19 political party pursuant to Section 1-19A-8 NMSA 1978 or from
20 private contributors pursuant to Section 8 of this 2019 act
21 that remains unspent or unencumbered by the date
22 the candidate ceases to be a certified candidate."

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

25 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

1 A. The secretary shall publish guidelines
2 outlining permissible campaign-related expenditures and
3 penalties for violations of the Voter Action Act by
4 September 1, 2019.

5 B. Applicant candidates shall file a report
6 listing contributions and expenditures with their application
7 for certification.

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

14 D. Certified candidates shall report all
15 contributions and expenditures according to the campaign
16 reporting schedule specified in the Campaign Reporting Act."

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

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

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

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

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

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

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

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

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

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

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

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

22 (5) unspent contributions to a candidate;

23 (6) money distributed to the fund from funds
24 received pursuant to the Uniform Unclaimed Property Act
25 (1995); and

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

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

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

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

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

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

18 "ALLOWABLE CONTRIBUTIONS.--

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

25 B. A certified candidate may collect contributions

1 from qualified electors registered to vote in the state. A
2 certified candidate shall not accept contributions from any
3 other source, except as allowed pursuant to Section 1-19A-8
4 NMSA 1978.

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

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

10 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

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

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

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

24 (2) for the office of justice of the supreme
25 court and judge of the court of appeals, fifteen cents (\$.15)

1 for each voter of the candidate's party in the state.

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

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

16 E. For contested general elections, the amount of
17 money to be distributed to a certified candidate is equal to
18 the following:

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

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

1 F. If a general election race that is initially
2 uncontested later becomes contested because of the
3 qualification of a candidate for that race, an amount of
4 money shall be distributed to the certified candidate to make
5 that candidate's distribution amount equal to the amount
6 distributed pursuant to Subsection E of this section.

7 G. Once the certification for candidates for the
8 primary election has been completed, the secretary shall
9 calculate the total amount of money to be distributed in the
10 primary election cycle, based on the number of certified
11 candidates and the allocations specified in this section.
12 The secretary shall also prepare an estimate of the total
13 amount of money that might be distributed in the general
14 election cycle. If the total amount to be distributed in the
15 primary election cycle and the estimated total amount to be
16 distributed in the general election cycle taken together
17 exceed the amount expected to be available in the fund, the
18 secretary shall allocate the amount available between the
19 primary and general election cycles. This allocation shall
20 be based on the ratio of the two total amounts.

21 H. If the allocation specified in Subsection G of
22 this section is greater than the total amount available for
23 distribution, then the amounts to be distributed to
24 individual candidates, specified in Subsections B through F
25 of this section, shall each be reduced by the same percentage

1 as the reduction by which the total amount needed has been
2 reduced relative to the total amount available.

3 I. At least every two years after January 1, 2007,
4 the secretary shall evaluate and modify as necessary the
5 dollar values originally determined by Subsections B
6 through F of this section and shall increase the amounts by
7 the percentage of the preceding two calendar years' increase
8 of the consumer price index for all urban consumers,
9 United States city average for all items, published by the
10 United States department of labor.

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

15 SECTION 10. Section 1-19A-17 NMSA 1978 (being Laws
16 2003, Chapter 14, Section 17) is amended to read:

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

18 A. In addition to other penalties that may be
19 applicable, a person who violates a provision of the Voter
20 Action Act is subject to a civil penalty of up to ten
21 thousand dollars (\$10,000) per violation. In addition to a
22 fine, a certified candidate found in violation of that act
23 may be required to return to the fund all amounts distributed
24 to the candidate from the fund. If the secretary makes a
25 determination that a violation of that act has occurred, the

1 secretary shall impose a fine and transmit the finding to the
2 attorney general for criminal prosecution pursuant to
3 Subsection B of this section. In determining whether a
4 certified candidate is in violation of the expenditure limits
5 of that act, the secretary may consider as a mitigating
6 factor any circumstances out of the candidate's control.

7 B. A person who willfully or knowingly violates
8 the provisions of the Voter Action Act or knowingly makes a
9 false statement in a report required by that act is guilty of
10 a fourth degree felony and, if the person is a certified
11 candidate, shall return to the fund all money distributed to
12 that candidate."

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

16 SECTION 12. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2019. _____