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SENATE BILL 222

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO ELECTIONS; ENACTING THE VOTER ACTION ACT; PROVIDING FOR VOLUNTARY PUBLIC CAMPAIGN FINANCING OF ELECTIONS FOR COMMISSIONERS OF THE PUBLIC REGULATION COMMISSION; PRESCRIBING PENALTIES; MAKING AN APPROPRIATION.

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

Section 1. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE. -- Sections 1 through 17 of this act may be cited as the "Voter Action Act". "

Section 2. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS. -- As used in the Voter Action Act:

A. "applicant candidate" means a candidate who is

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1 running for a covered office and who is seeking to be a  
2 certified candidate in a primary or general election;

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

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

10 D. "covered office" means the office of public  
11 regulation commissioner;

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

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

21 G. "noncertified candidate" means either a  
22 candidate running for a covered office who does not choose to  
23 participate in the Voter Action Act and who is not seeking to  
24 be a certified candidate or a candidate who declares his intent  
25 to participate but who fails to qualify;

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

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

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

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

16                   I. "qualifying period" means:

17                   (1) for major party applicant candidates for  
18 public regulation commissioner, the period beginning October 1  
19 immediately preceding the election year and ending at 5:00 p.m.  
20 on the third Tuesday of March of the election year; and

21                   (2) for independent and minor party  
22 candidates, the period beginning February 1 of the election  
23 year and ending that year at 5:00 p.m. on the filing date for  
24 independent or minor party candidates for the office for which  
25 the candidate is running;

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1           J. "secretary" means the secretary of state or the  
2 office of the secretary of state;

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

6           L. "total vote" means the total number of votes  
7 cast in the last general election for all candidates for  
8 governor in the district in which the candidate is running. "

9           Section 3. A new section of the Election Code is enacted  
10 to read:

11           "[NEW MATERIAL] TERMS OF PARTICIPATION-- DECLARATION OF  
12 INTENT. --

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

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

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1 that act and rules issued by the secretary.

2 C. A candidate shall not be eligible to become an  
3 applicant candidate if the candidate has accepted contributions  
4 totaling five hundred dollars (\$500) or more or made  
5 expenditures totaling five hundred dollars (\$500) or more  
6 between the beginning of the qualifying period and filing a  
7 declaration of intent. "

8 Section 4. A new section of the Election Code is enacted  
9 to read:

10 "[NEW MATERIAL] QUALIFYING CONTRIBUTIONS. -- Applicant  
11 candidates shall obtain qualifying contributions as follows:

12 A. the applicant candidate shall obtain qualifying  
13 contributions from that number of registered voters that is  
14 equal to at least one quarter percent of the total vote;

15 B. applicant candidates may accept qualifying  
16 contributions from persons who become registered within the  
17 statutory time frame that would enable that person to vote in  
18 the primary election;

19 C. voters registered as independent are not  
20 excluded from making qualifying contributions but shall be  
21 registered within the statutory time frame as independent; and

22 D. no payment, gift or anything of value shall be  
23 given in exchange for a qualifying contribution. "

24 Section 5. A new section of the Election Code is enacted  
25 to read:

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1           "[NEW MATERIAL] SEED MONEY. --

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

8           B. An applicant candidate may collect and spend  
9 seed money during the sixty days immediately preceding the  
10 qualifying period and throughout the qualifying period.

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

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

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

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

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1        contributions.

2                G.    An incumbent elected prior to 2006 who was not  
3        an applicant candidate when elected but declares his intent to  
4        become an applicant candidate in accordance with the Voter  
5        Action Act may transfer from his campaign fund for use as seed  
6        money up to the limits for contributions and expenditures  
7        specified in Subsection H of this section.

8                H.    An applicant candidate shall limit seed money  
9        contributions and expenditures to five thousand dollars  
10       (\$5,000). "

11               Section 6.    A new section of the Election Code is enacted  
12        to read:

13                "[NEW MATERIAL] CERTIFICATION. --

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

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

20                        (2)    submitted the appropriate number of  
21        qualifying contributions;

22                        (3)    qualified as a candidate pursuant to other  
23        applicable state election law;

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

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

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

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

Section 7. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] 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



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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. A certified candidate shall not  
5 accept contributions or loans from any other source except his  
6 political party, as specified in Section 8 of the Voter Action  
7 Act.

8 D. A certified candidate shall return to the  
9 secretary, within two weeks after the primary election, any  
10 amount that is unspent or unencumbered by the date of the  
11 primary election for direct deposit into the fund.

12 E. A certified candidate shall return to the  
13 secretary, within two weeks after the general election, any  
14 amount that is unspent or unencumbered by the date of the  
15 general election for direct deposit into the fund."

16 Section 8. A new section of the Election Code is enacted  
17 to read:

18 "[NEW MATERIAL] POLITICAL PARTY EXPENDITURES--  
19 CONTRIBUTIONS TO CERTIFIED CANDIDATES.--

20 A. A certified candidate may accept monetary or in-  
21 kind contributions from a political party; provided that the  
22 aggregate amount of such contributions from all political party  
23 committees combined does not exceed the equivalent of ten  
24 percent of the value of that candidate's aggregate public  
25 financing per election cycle.

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1           B. All in-kind contributions from a political party  
2 distributed to certified candidates shall be used for campaign-  
3 related purposes.

4           C. In-kind contributions by a political party made  
5 during the general election campaign period on behalf of a  
6 group of the party's candidates shall not be considered an  
7 improper party contribution or count against the ten percent  
8 limit mentioned in Subsection A of this section if such group  
9 includes all of the candidates for a particular office who are  
10 candidates of that party.

11           D. Nothing in this section shall prevent political  
12 party funds from being used for general operating expenses of  
13 the party; conventions; nominating and endorsing candidates;  
14 identifying, researching and developing the party's position on  
15 issues; party platform activities; noncandidate-specific voter  
16 registration; noncandidate-specific get-out-the-vote drives;  
17 travel expenses for noncandidate party leaders and staff; and  
18 other noncandidate-specific party building activities."

19           Section 9. A new section of the Election Code is enacted  
20 to read:

21           "[NEW MATERIAL] CANDIDATE REPORTING REQUIREMENTS. --

22           A. The secretary shall publish guidelines outlining  
23 permissible campaign-related expenditures.

24           B. Applicant candidates shall file a report listing  
25 seed money contributions and expenditures with their

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1 application for certification.

2 C. Applicant candidates shall file qualifying  
3 contributions with the secretary during the qualifying period  
4 according to procedures developed by the secretary. In  
5 developing these procedures, the secretary shall use existing  
6 campaign reporting procedures and deadlines whenever practical.

7 D. Certified candidates shall report expenditures  
8 according to the campaign reporting requirements specified in  
9 the Election Code.

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

18 F. A person or political committee that makes  
19 expenditures to influence a race involving a certified  
20 candidate shall report to the secretary the amount that person  
21 or political committee has spent. These reports shall include  
22 all previously unreported transactions through 5:00 p.m. two  
23 days before the report is due, and shall be submitted as  
24 follows:

25 (1) for the primary election, by 5:00 p.m. on

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1 the second Monday in May, by 5:00 p.m. on the eleventh day  
2 before the election and by 5:00 p.m. on the Thursday before the  
3 election; and

4 (2) for the general election, by 5:00 p.m. the  
5 first Tuesday in October, by 5:00 p.m. on the eleventh day  
6 before the election and by 5:00 p.m. on the Thursday before the  
7 election. "

8 Section 10. A new section of the Election Code is enacted  
9 to read:

10 "[NEW MATERIAL] PUBLIC ELECTION FUND-- CREATION-- USE. --

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

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

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

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

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

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

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

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

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

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

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

15 (6) money appropriated by the legislature.

16 D. The fund shall be funded at three hundred  
17 thousand dollars (\$300,000) per year segregated from proceeds  
18 collected as follows:

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

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

25 (3) one hundred thousand dollars (\$100,000)

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1 from the insurance premium tax collected pursuant to Section  
2 59A-6-2 NMSA 1978. "

3 Section 11. A new section of the Election Code is enacted  
4 to read:

5 "[NEW MATERIAL] DETERMINATION OF FUND AMOUNT. --

6 A. By January 1, 2007, and every two years  
7 thereafter, the secretary shall prepare and provide to the  
8 legislature a report documenting, evaluating and making  
9 recommendations relating to the administration, implementation  
10 and enforcement of the Voter Action Act.

11 B. In the report, the secretary shall set out the  
12 revenues received to date, the expected costs to the fund for  
13 the next election cycle and the amount of the annual  
14 appropriation from the legislature that will be required to  
15 meet this need. "

16 Section 12. A new section of the Election Code is enacted  
17 to read:

18 "[NEW MATERIAL] TIMING OF FUND DISTRIBUTION. --

19 A. Beginning with the election cycle that ends with  
20 the general election in 2006, the secretary shall distribute  
21 money from the fund to certified candidates.

22 B. For a primary election certified candidate, the  
23 secretary shall distribute the amount due to that certified  
24 candidate for that covered office within one week of  
25 certification.

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1 C. For a candidate certified for the general  
2 election, the secretary shall distribute the amount due to that  
3 certified candidate for that covered office within one week  
4 after the primary election or, for a minor party or independent  
5 candidate, within one week after certification of the  
6 candidate. "

7 Section 13. A new section of the Election Code is enacted  
8 to read:

9 "[NEW MATERIAL] AMOUNT OF FUND DISTRIBUTION. --

10 A. By April 1, 2005, the secretary shall determine  
11 the amount of money to be distributed to each certified  
12 candidate for the election cycle ending with the general  
13 election in 2006, based on the type of election and the  
14 provisions of Subsections B through E of this section.

15 B. For contested primary elections, the amount of  
16 money to be distributed is equal to the average amount of  
17 campaign expenditures made by all candidates receiving ten  
18 percent or greater of votes cast in all contested primary  
19 election races for the immediately preceding four primary  
20 elections for public regulation commissioner.

21 C. For uncontested primary elections, the amount of  
22 money to be distributed is equal to fifty percent of the  
23 average amount of campaign expenditures made by all candidates  
24 during all uncontested primary election races, or for contested  
25 races if the amount is lower, for the immediately preceding

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1 four primary elections for public regulation commissioner.

2 D. For contested general elections, the amount of  
3 money to be distributed is equal to the average amount of  
4 campaign expenditures made by all candidates receiving thirty  
5 percent or greater of votes cast in all contested general  
6 election races for the immediately preceding four general  
7 elections for public regulation commissioner.

8 E. For uncontested general elections, the amount of  
9 money to be distributed is equal to fifty percent of the  
10 average amount of campaign expenditures made by all candidates  
11 receiving thirty percent or greater of votes cast in all  
12 uncontested general election races for the immediately  
13 preceding four general elections for public regulation  
14 commissioner. If a general election race that is initially  
15 uncontested later becomes contested because of the  
16 qualification of an independent or minor party candidate to  
17 appear on the ballot for that race, an additional amount of  
18 money will be distributed to the certified candidate to make  
19 that candidate's total distribution amount equal to the amount  
20 distributed pursuant to Subsection D of this section.

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

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1 secretary shall increase the total amount by twenty percent to  
2 provide funds for additional matching funds in the primary  
3 election. The secretary shall also prepare an estimate of the  
4 total amount of money that might be distributed in the general  
5 election cycle. This estimate shall be increased by twenty  
6 percent to provide funds for additional matching funds in the  
7 general election. If the total amount to be distributed in the  
8 primary election cycle, plus the added twenty percent and the  
9 estimated total amount to be distributed in the general  
10 election cycle, plus the added twenty percent, all taken  
11 together, exceed the amount expected to be available in the  
12 fund, the secretary shall allocate the amount available between  
13 the primary and general election cycles. This allocation shall  
14 be based on the ratio of the two total amounts.

15 G. If the allocation specified in Subsection F of  
16 this section is greater than the total amount available for  
17 distribution, then the amounts to be distributed to individual  
18 candidates, specified in Subsections B through E of this  
19 section, shall each be reduced by the same percentage as the  
20 reduction by which the total amount needed has been reduced  
21 relative to the total amount available.

22 H. If the immediately preceding four election  
23 cycles do not contain sufficient data for the secretary to  
24 determine the amount to be distributed for an office, the  
25 secretary shall use data from the most recent applicable

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1 elections for that office. If no applicable elections for that  
2 office contain sufficient data, the secretary shall set an  
3 amount based on data from elections for comparable offices.

4 I. At least every two years after January 1, 2007,  
5 the secretary shall evaluate and modify as necessary the dollar  
6 values originally determined by Subsections B through E or H of  
7 this section and shall consider and account for inflation in  
8 the evaluations. "

9 Section 14. A new section of the Election Code is enacted  
10 to read:

11 "[NEW MATERIAL] MATCHING FUNDS. --When a noncertified  
12 candidate has one or more opponents who are certified  
13 candidates and his campaign finance report or group of reports  
14 shows that the sum of the noncertified candidate's expenditures  
15 and obligations made, or funds raised or borrowed, whichever is  
16 greater, alone or in conjunction with expenditures made  
17 independently of the candidate to influence the election on  
18 behalf of the candidate, exceeds the amount distributed to the  
19 certified candidate, the secretary shall issue immediately to  
20 any opposing certified candidate an additional amount  
21 equivalent to the excess amount reported by the non-  
22 participating opposing candidate. Total matching funds to a  
23 certified candidate in an election are limited to twice the  
24 amount originally distributed to that candidate pursuant to  
25 Section 13 of the Voter Action Act. "

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1           Section 15. A new section of the Election Code is enacted  
2 to read:

3           "[NEW MATERIAL] ADMINISTRATION--SECRETARY OF STATE--  
4 DUTIES. --

5           A. The secretary shall adopt rules to ensure  
6 effective administration of the Voter Action Act.

7           B. The rules shall include procedures for:

- 8                   (1) qualifications, certification and
- 9 disbursement of revenues and return of unspent fund revenues;
- 10                   (2) obtaining qualifying contributions;
- 11                   (3) certification of candidates;
- 12                   (4) collection of revenues; and
- 13                   (5) return of fund disbursements and other
- 14 money to the fund. "

15           Section 16. A new section of the Election Code is enacted  
16 to read:

17           "[NEW MATERIAL] APPEALS.--The procedure for challenging a  
18 certification decision by the secretary is as follows:

19           A. a person aggrieved by a certification decision  
20 or a decision regarding the distribution of matching funds may  
21 appeal to the secretary within three days of the decision. The  
22 appeal shall be in writing and shall set forth the reasons for  
23 appeal;

24           B. within five days after an appeal is properly  
25 made, and after due notice is given to the parties in dispute,

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1 the secretary shall hold a hearing whereby:

2 (1) the appellant has the burden of providing  
3 evidence to demonstrate that the secretary's decision was  
4 improper; and

5 (2) the secretary shall rule on the appeal  
6 within three days after the completion of the hearing;

7 C. the parties in dispute may appeal the decision  
8 of the secretary by commencing an action in district court; and

9 D. certified candidates whose certification is  
10 revoked on appeal shall return to the secretary any unspent  
11 money distributed from the fund. If the secretary or court  
12 finds that an appeal was made frivolously or to result in delay  
13 or hardship, the secretary or court may sanction the moving  
14 party by requiring the party to pay costs of the administrative  
15 hearing, the court hearing and the opposing parties. "

16 Section 17. A new section of the Election Code is enacted  
17 to read:

18 "[NEW MATERIAL] PENALTIES. --

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

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1 determination that a violation of that act has occurred, the  
2 secretary shall impose a fine or transmit the finding to the  
3 attorney general for prosecution. 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 factor  
6 any circumstances out of the candidate's control.

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

13 Section 18. Section 59A-6-2 NMSA 1978 (being Laws 1984,  
14 Chapter 127, Section 102, as amended) is amended to read:

15 "59A-6-2. PREMIUM TAX. --

16 A. The premium tax provided for in this section  
17 shall apply as to the following taxpayers:

18 (1) each insurer authorized to transact  
19 insurance in New Mexico;

20 (2) each insurer formerly authorized to  
21 transact insurance in New Mexico and receiving premiums on  
22 policies remaining in force in New Mexico, except that this  
23 provision shall not apply as to an insurer that withdrew from  
24 New Mexico prior to March 26, 1955;

25 (3) each plan operating under provisions of

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1 Chapter 59A, Articles 46 through 49 NMSA 1978;

2 (4) each property bondsman, as that person is  
3 defined in Section 59A-51-2 NMSA 1978, as to any consideration  
4 received as security or surety for a bail bond in connection  
5 with a judicial proceeding, which consideration shall be  
6 considered "gross premiums" for the purposes of this section;  
7 and

8 (5) each unauthorized insurer that has assumed  
9 a contract or policy of insurance directly or indirectly from  
10 an authorized or formerly authorized insurer and is receiving  
11 premiums on such policies remaining in force in New Mexico,  
12 except that this provision shall not apply if a ceding insurer  
13 continues to pay the tax provided in this section as to such  
14 policy or contract.

15 B. Each such taxpayer shall pay in accordance with  
16 this subsection three and three-thousandths percent of the  
17 gross premiums and membership and policy fees received by it on  
18 insurance or contracts covering risks within this state during  
19 the preceding calendar year, less all return premiums,  
20 including dividends paid or credited to policyholders or  
21 contract holders and premiums received for reinsurance on New  
22 Mexico risks. For each calendar quarter, an estimated payment  
23 shall be made on April 15, July 15, October 15 and the  
24 following January 15. The estimated payments shall be equal to  
25 at least one-fourth of either the payment made during the

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1 previous calendar year or eighty percent of the actual payment  
2 due for the current calendar year, whichever is greater. The  
3 final adjustment for payments due for the prior year shall be  
4 made with the return which shall be filed on April 15 of each  
5 year, at which time all taxes for that year are due. Dividends  
6 paid or credited to policyholders or contract holders and  
7 refunds, savings, savings coupons and similar returns or  
8 credits applied or credited to payment of premiums for  
9 existing, new or additional insurance shall, in the amount so  
10 used, constitute premiums subject to tax under this section for  
11 the year in which so applied or credited. Provided that as to  
12 every insurer which throughout such preceding calendar year had  
13 at least forty percent of its admitted assets invested in New  
14 Mexico investments, as the same are defined in Subsection C of  
15 this section, the rate of such tax shall be nine-tenths of one  
16 percent in lieu of three percent; provided further that,  
17 effective January 1, 1992, the rate shall be one and four-  
18 tenths percent; effective July 1, 1992, the rate shall be one  
19 and nine-tenths percent; effective January 1, 1993, the rate  
20 shall be two and four-tenths percent; and effective July 1,  
21 1993 and thereafter, the rate shall be three and three-  
22 thousandths percent.

23 C. New Mexico investments for the purpose of  
24 Subsection B of this section are defined as follows:

25 (1) real estate located within New Mexico;

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1 (2) bonds or obligations of New Mexico or of  
2 any county or other subdivision thereof;

3 (3) bonds, debentures or secured obligations  
4 of any corporation that has fifty percent of its assets located  
5 within New Mexico;

6 (4) first mortgages secured by real estate  
7 located within New Mexico;

8 (5) deposits in state banks, national banks  
9 and trust companies having their principal place of business  
10 within New Mexico;

11 (6) policy loans to residents of New Mexico;  
12 and

13 (7) preferred and common stock of corporations  
14 having at least fifty percent of their assets located within  
15 New Mexico.

16 D. Nothing contained in Subsection C of this  
17 section shall be construed to affect any provision of Chapter  
18 59A, Article 9 NMSA 1978.

19 E. Exempted from the tax imposed by Subsection B of  
20 this section are premiums attributable to insurance or  
21 contracts purchased by the state or any political subdivision  
22 and payments received by a health maintenance organization from  
23 the federal secretary of health and human services pursuant to  
24 a contract issued under the provisions of 42 U.S.C. Section  
25 1395 mm(g). "

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1           Section 19. Section 59A-6-5 NMSA 1978 (being Laws 1984,  
2 Chapter 127, Section 105, as amended) is amended to read:

3           "59A-6-5. DISTRIBUTION OF INSURANCE DEPARTMENT  
4 COLLECTIONS. --

5           A. All money received by the insurance department  
6 for fees, licenses, penalties and taxes shall be paid daily by  
7 the superintendent to the state treasurer and by him credited  
8 to the "insurance department suspense fund" except as provided  
9 by:

10                           (1) the Law Enforcement Protection Fund Act;

11           [and]

12                           (2) Section 59A-6-1.1 NMSA 1978; and

13                           (3) the Voter Action Act.

14           B. The superintendent may authorize refund of money  
15 erroneously paid as fees, licenses, penalties or taxes from the  
16 insurance department suspense fund under request for refund  
17 made within three years after the erroneous payment.

18           C. At the end of every month, the treasurer shall  
19 transfer to the "fire protection fund" the balance remaining in  
20 the insurance department suspense fund after applicable refunds  
21 made pursuant to Subsection B of this section, and derived from  
22 property and vehicle insurance business, and transfer to the  
23 general fund the balance remaining in the insurance department  
24 suspense fund derived from all other kinds of insurance  
25 business. "

. 142190. 2

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1           Section 20. Section 63-7-20 NMSA 1978 (being Laws 1951,  
2 Chapter 194, Section 1, as amended) is amended to read:

3           "63-7-20. UTILITY AND CARRIER INSPECTION--FEE. --Each  
4 utility and carrier doing business in this state which is  
5 subject to the control and jurisdiction of the commission by  
6 virtue of the provisions of Article 11 of the constitution of  
7 New Mexico with respect to its rates and service shall pay  
8 annually to the commission a fee in performance of its duties  
9 as now provided by law. The fee for carriers shall not exceed  
10 [~~one-fourth of one~~] two hundred fifty-six thousandths percent  
11 of its gross receipts from business transacted in New Mexico  
12 for the preceding calendar year. The fee for utilities shall  
13 not exceed [~~one-half of one~~] five hundred eleven thousandths  
14 percent of its gross receipts from business transacted in New  
15 Mexico for the preceding calendar year. This sum shall be  
16 payable annually on or before January 20 or in equal quarterly  
17 installments on or before January 20, April 20, July 20 and  
18 October 20 in each year. No similar fee shall be imposed upon  
19 the utility or carrier. In the case of utilities or carriers  
20 engaged in interstate business, the fees shall be measured by  
21 the gross receipts of the utilities or carriers from intrastate  
22 business only for the preceding calendar year and not in any  
23 respect upon receipts derived wholly or in part from interstate  
24 business. As used in this section, "utility" includes  
25 telephone companies and transmission companies. "

. 142190. 2

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1           Section 21. Section 62-8-8 NMSA 1978 (being Laws 1967,  
2 Chapter 96, Section 6, as amended) is amended to read:

3           "62-8-8. INSPECTION AND SUPERVISION [~~FEES~~] FEE. -- Each  
4 utility doing business in this state and subject to the control  
5 and jurisdiction of the commission with respect to its rates or  
6 service regulations shall pay annually to the state a fee for  
7 the inspection and supervision of such business in an amount  
8 equal to [~~one-half of one~~] five hundred six thousandths percent  
9 of its gross receipts from business transacted in New Mexico  
10 for the preceding calendar year. [~~In calendar year 1992, that~~  
11 ~~sum shall be payable in equal quarterly installments on or~~  
12 ~~before the last day of February, May, August and November,~~  
13 ~~respectively. Thereafter]~~ That sum shall be payable on or  
14 before the last day of February in each year. An inspection  
15 and supervision [~~fees~~] fee shall be paid by [~~such~~] utilities in  
16 addition to [~~any and~~] all property, franchise, license,  
17 intangible and other taxes, fees and charges [~~now or hereafter~~]  
18 provided by law. No similar inspection and supervision fee  
19 shall be measured by the amount of the gross receipts of such  
20 utility for the calendar year next preceding the date fixed in  
21 this section for the payment of the fee. In the case of  
22 utilities engaged in interstate business, the [~~fees~~] inspection  
23 and supervision fee shall be measured by the gross receipts of  
24 those utilities from intrastate business only for that  
25 preceding calendar year and not in any respect upon receipts

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1 derived wholly or in part from interstate business. No  
2 [~~supervision or inspection fees~~] inspection and supervision fee  
3 shall be charged on the gross receipts from the sale of gas,  
4 water or electricity to a utility regulated by the commission  
5 for resale to the public."

6 Section 22. SEVERABILITY. --If any part of or application  
7 of the Voter Action Act is held invalid, the remainder of its  
8 provisions or its application to other situations or persons  
9 shall not be affected.

10 Section 23. EFFECTIVE DATE. --The effective date of the  
11 provisions of this act is July 1, 2003.