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HOUSE BILL 818

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO ELECTIONS; AMENDING THE VOTER ACTION ACT TO INCLUDE STATE OFFICERS AND JUDGES ELECTED ON A STATEWIDE BASIS; PROVIDING FOR FUNDING OF THE PUBLIC ELECTION FUND; MAKING AN APPROPRIATION; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 1990, CHAPTER 6, SECTION 19.

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

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

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

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

B. "certified candidate" means a candidate running 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 election" means an election in which
4 there are more candidates for a position than the number to be
5 elected to that position;

6 D. "covered office" means any office of the
7 executive department or judicial department subject to
8 statewide elections and the office of public regulation
9 commissioner;

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

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

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

25 H. "qualifying contribution" means a donation of

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1 five dollars (\$5.00) in the form of cash or a check or money
2 order payable to the fund in support of an applicant candidate
3 that is:

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

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

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

15 I. "qualifying period" means:

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

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 east in the last general election for all candidates for
8 governor in the district in which the candidate is running]."~~

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

11 "1-19A-4. QUALIFYING CONTRIBUTIONS.--

12 A. Applicant candidates shall obtain qualifying
13 contributions as follows:

14 [~~A. the applicant candidate shall obtain qualifying
15 contributions from that number of registered voters that is
16 equal to at least one quarter percent of the total vote;]~~

17 (1) for governor and lieutenant governor, the
18 number of qualifying contributions equal to two-tenths of one
19 percent of the number of voters in the state;

20 (2) for all other statewide elective offices,
21 the number of qualifying contributions equal to one-tenth of
22 one percent of the number of voters in the state; and

23 (3) for the office of public regulation
24 commissioner, the number of qualifying contributions equal to
25 one-tenth of one percent of the number of voters in the

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1 district of the office for which the candidate is running.

2 B. Applicant candidates may accept qualifying
3 contributions from persons who become registered within the
4 statutory time frame that would enable that person to vote in
5 the primary election.

6 C. Voters registered as independent are not
7 excluded from making qualifying contributions but shall be
8 registered within the statutory time frame as independent
9 [~~and~~].

10 D. No payment, gift or anything of value shall be
11 given in exchange for a qualifying contribution."

12 Section 3. Section 1-19A-5 NMSA 1978 (being Laws 2003,
13 Chapter 14, Section 5) is amended to read:

14 "1-19A-5. SEED MONEY.--

15 A. An applicant candidate may collect seed money
16 from individual donors and political action committees in
17 amounts of no more than one hundred dollars (\$100) per donor or
18 committee. An applicant candidate may contribute an amount of
19 seed money from [~~his~~] the applicant candidate's own funds up to
20 the limits specified in Subsection H of this section.

21 B. An applicant candidate may collect and spend
22 seed money during the sixty days immediately preceding the
23 qualifying period and throughout the qualifying period.

24 C. An applicant candidate may not collect seed
25 money from a corporation, association or partnership formed

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1 under state law or from labor organizations.

2 D. An applicant candidate may not collect or spend
3 seed money for any purpose after certification and before the
4 end of the election cycle for which the candidate was
5 certified, but after the election cycle may carry forward to
6 the next election cycle any unspent seed money to be used as
7 seed money.

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

11 F. After becoming an applicant candidate and prior
12 to certification, an applicant candidate shall not accept
13 contributions, except for seed money or qualifying
14 contributions.

15 G. An incumbent, other than a public regulation
16 commissioner, elected prior to ~~[2006]~~ 2008 who was not an
17 applicant candidate when elected but ~~[declares his intent]~~ who
18 files a declaration of intent to become an applicant candidate
19 in accordance with the Voter Action Act may transfer from ~~[his]~~
20 the applicant candidate's campaign fund for use as seed money
21 up to the limits for contributions and expenditures specified
22 in Subsection H of this section.

23 H. An applicant candidate shall limit seed money
24 contributions and expenditures to five thousand dollars
25 (\$5,000)."

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1 Section 4. Section 1-19A-7 NMSA 1978 (being Laws 2003,
2 Chapter 14, Section 7) is amended to read:

3 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS
4 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

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

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

12 C. A certified candidate shall limit total campaign
13 expenditures and debts to the amount of money distributed to
14 that candidate from the fund. A certified candidate shall not
15 accept contributions or loans from any other source except
16 [his] the certified candidate's political party, as specified
17 in Section [~~8 of the Voter Action Act~~] 1-19A-8 NMSA 1978.

18 D. A certified candidate shall return to the
19 secretary, within [~~two weeks~~] thirty days after the primary
20 election, any amount that is unspent or unencumbered by the
21 date of the primary election for direct deposit into the fund.

22 E. A certified candidate shall return to the
23 secretary, within [~~two weeks~~] thirty days after the general
24 election, any amount that is unspent or unencumbered by the
25 date of the general election for direct deposit into the fund."

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1 Section 5. Section 1-19A-10 NMSA 1978 (being Laws 2003,
2 Chapter 14, Section 10) is amended to read:

3 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

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

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

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

12 B. The state treasurer shall invest the funds as
13 other state funds are invested, and all income derived from the
14 fund shall be credited directly to the fund. Remaining
15 balances at the end of a fiscal year shall remain in the
16 election fund and not revert to the general fund; provided,
17 however, that money remaining in the fund at the end of an
18 election cycle that is attributable to distributions made from
19 funds received pursuant to the Uniform Unclaimed Property Act
20 (1995) shall revert to the general fund on the January 1
21 following the general election.

22 C. Money received from the following sources shall
23 be deposited directly into the fund:

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

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

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

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

11 (5) unspent seed money that cannot be used for
12 any other purpose; [~~and~~]

13 (6) money distributed to the fund from funds
14 received pursuant to the Uniform Unclaimed Property Act (1995);
15 and

16 [~~(6)~~] (7) money appropriated by the
17 legislature.

18 D. A subaccount shall be established in the fund,
19 and money in the subaccount shall only be used to pay the costs
20 of carrying out the provisions of the Voter Action Act related
21 to public regulation commission elections.

22 [~~D. The fund shall be funded at~~] E. Three hundred
23 thousand dollars (\$300,000) per year [~~segregated from proceeds~~]
24 shall be collected and deposited in the subaccount for public
25 regulation commission elections as follows:

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

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

7 (3) one hundred thousand dollars (\$100,000)
8 from the insurance premium tax collected pursuant to Section
9 59A-6-2 NMSA 1978."

10 Section 6. Section 1-19A-13 NMSA 1978 (being Laws 2003,
11 Chapter 14, Section 13) is amended to read:

12 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

13 A. By ~~[April 1, 2005]~~ August 1, 2007, the secretary
14 shall determine the amount of money to be distributed to each
15 certified candidate for the election cycle ending with the
16 general election in ~~[2006]~~ 2008, based on the type of election
17 and the provisions of Subsections B through ~~[E]~~ F of this
18 section.

19 B. For contested primary elections, the amount of
20 money to be distributed to a certified candidate is equal to
21 ~~[the average amount of campaign expenditures made by all~~
22 ~~candidates receiving ten percent or greater of votes cast in~~
23 ~~all contested primary election races for the immediately~~
24 ~~preceding four primary elections for public regulation~~
25 ~~commissioner]~~ the following:

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1 (1) for the office of governor, one dollar
2 fifty cents (\$1.50) for each voter of the candidate's party in
3 the state;

4 (2) for the office of lieutenant governor and
5 public regulation commissioner, twenty-five cents (\$.25) for
6 each voter of the candidate's party in the district of the
7 office for which the candidate is running;

8 (3) for the office of commissioner of public
9 lands and attorney general, seventy-five cents (\$.75) for each
10 voter of the candidate's party in the state; and

11 (4) for the office of secretary of state,
12 state treasurer, state auditor, justice of the supreme court
13 and judge of the court of appeals, fifteen cents (\$.15) for
14 each voter of the candidate's party in the state.

15 C. For uncontested primary elections, the amount of
16 money to be distributed to a certified candidate is equal to
17 fifty percent of the [average] amount [~~of campaign expenditures~~
18 ~~made by all candidates during all uncontested primary election~~
19 ~~racess, or for contested races if the amount is lower, for the~~
20 ~~immediately preceding four primary elections for public~~
21 ~~regulation commissioner] specified in Subsection B of this
22 section.~~

23 D. For contested general elections, the amount of
24 money to be distributed to a certified candidate is equal to
25 [~~the average amount of campaign expenditures made by all~~

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1 ~~candidates receiving thirty percent or greater of votes cast in~~
2 ~~all contested general election races for the immediately~~
3 ~~preceding four general elections for public regulation~~
4 ~~commissioner]~~ the following:

5 (1) for the office of governor, one dollar
6 fifty cents (\$1.50) for each voter in the state;

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

11 (3) for the office of commissioner of public
12 lands and attorney general, seventy-five cents (\$.75) for each
13 voter in the state; and

14 (4) for the office of secretary of state,
15 state treasurer, state auditor, justice of the supreme court
16 and judge of the court of appeals, fifteen cents (\$.15) for
17 each voter in the state.

18 E. For uncontested general elections, except as
19 provided in Subsection I of this section, the amount of money
20 to be distributed to a certified candidate is equal to fifty
21 percent of the [~~average amount of campaign expenditures made by~~
22 ~~all candidates receiving thirty percent or greater of votes~~
23 ~~cast in all uncontested general election races for the~~
24 ~~immediately preceding four general elections for public~~
25 ~~regulation commissioner]~~ amount specified in Subsection D of

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1 this section. If a general election race that is initially
2 uncontested later becomes contested because of the
3 qualification of an independent or minor party candidate to
4 appear on the ballot for that race, an additional amount of
5 money [~~will~~] shall be distributed to the certified candidate to
6 make that candidate's total distribution amount equal to the
7 amount distributed pursuant to Subsection D of this section.

8 F. Once the certification for candidates for the
9 primary election has been completed, the secretary shall
10 calculate the total amount of money to be distributed in the
11 primary election cycle, based on the number of certified
12 candidates and the allocations specified in this section. The
13 secretary shall increase the total amount by twenty percent to
14 provide funds for additional matching funds in the primary
15 election. The secretary shall also prepare an estimate of the
16 total amount of money that might be distributed in the general
17 election cycle. This estimate shall be increased by twenty
18 percent to provide funds for additional matching funds in the
19 general election. If the total amount to be distributed in the
20 primary election cycle, plus the added twenty percent and the
21 estimated total amount to be distributed in the general
22 election cycle, plus the added twenty percent, all taken
23 together, exceed the amount expected to be available in the
24 fund, the secretary shall allocate the amount available between
25 the primary and general election cycles. This allocation shall

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1 be based on the ratio of the two total amounts.

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

9 ~~[H. If the immediately preceding four election~~
10 ~~cycles do not contain sufficient data for the secretary to~~
11 ~~determine the amount to be distributed for an office, the~~
12 ~~secretary shall use data from the most recent applicable~~
13 ~~elections for that office. If no applicable elections for that~~
14 ~~office contain sufficient data, the secretary shall set an~~
15 ~~amount based on data from elections for comparable offices.~~

16 ~~F.]~~ H. 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 E
19 [~~or H~~] of this section and shall consider and account for
20 inflation in the evaluations.

21 I. No money shall be distributed to candidates in
22 judicial retention elections. No money shall be distributed to
23 judicial candidates in uncontested general elections, provided
24 that if a general election race that is initially uncontested
25 later becomes contested, the certified judicial candidate shall

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1 receive a distribution in accordance with Subsection D of this
2 section."

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

5 "1-19A-14. MATCHING FUNDS.--When a certified or
6 noncertified candidate has one or more opponents who are
7 certified candidates and [~~his~~] the candidate's campaign finance
8 report or group of reports shows that the sum of the
9 [~~noncertified~~] candidate's expenditures and obligations made,
10 or funds raised or borrowed, whichever is greater, alone or in
11 conjunction with expenditures made independently of the
12 candidate to influence the election on behalf of the candidate,
13 exceeds the amount distributed to [~~the~~] an opposing certified
14 candidate, the secretary shall issue immediately to any
15 opposing certified candidate an additional amount equivalent to
16 the excess amount reported by the [~~nonparticipating~~] opposing
17 candidate. Total matching funds to a certified candidate in an
18 election are limited to twice the amount originally distributed
19 to that candidate pursuant to Section [~~13 of the Voter Action~~
20 Act] 1-19A-13 NMSA 1978."

21 Section 8. A new section of the Tax Administration Act is
22 enacted to read:

23 "[NEW MATERIAL] DISTRIBUTION--PUBLIC ELECTION FUND.--A
24 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
25 made to the public election fund of the amount deposited

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1 pursuant to the provisions of Section 7-8A-13 NMSA 1978."

2 Section 9. Section 7-1-6.1 NMSA 1978 (being Laws 1983,
3 Chapter 211, Section 6, as amended by Laws 1990, Chapter 6,
4 Section 19 and by Laws 1990, Chapter 86, Section 3) is amended
5 to read:

6 "7-1-6.1. IDENTIFICATION OF MONEY IN TAX ADMINISTRATION
7 SUSPENSE FUND--DISTRIBUTION.--After the necessary disbursements
8 have been made from the tax administration suspense fund, the
9 money remaining, except for remittances received within the
10 previous sixty days that are unidentified as to source or
11 disposition, in the suspense fund as of the last day of the
12 month shall be identified by tax source and distributed or
13 transferred in accordance with the applicable provisions of
14 [~~Sections 7-1-6.2 through 7-1-6.19, 7-1-6.24 through 7-1-6.26~~
15 ~~and 7-1-6.28 through 7-1-6.40 NMSA 1978~~] the Tax Administration
16 Act. After the necessary distributions and transfers, any
17 balance shall be distributed to the general fund."

18 Section 10. Section 7-8A-13 NMSA 1978 (being Laws 1997,
19 Chapter 25, Section 13) is amended to read:

20 "7-8A-13. DEPOSIT OF FUNDS.--

21 [~~(a)~~] A. Except as otherwise provided by this
22 section, the administrator shall promptly deposit in the tax
23 administration suspense fund for distribution to the [~~general~~
24 ~~fund of this state~~] public election fund all [~~funds~~] money
25 received under the Uniform Unclaimed Property Act (1995),

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1 including the proceeds from the sale of abandoned property
2 under Section [~~12 of that act~~] 7-8A-12 NMSA 1978. The
3 administrator shall retain in the [~~unclaimed property~~] tax
4 administration suspense fund at least one hundred thousand
5 dollars (\$100,000) for the purposes of the Uniform Unclaimed
6 Property Act (1995), from which the administrator shall pay
7 claims duly allowed. The administrator shall record the name
8 and last known address of each person appearing from the
9 holders' reports to be entitled to the property and the name
10 and last known address of each insured person or annuitant and
11 beneficiary and with respect to each policy or annuity listed
12 in the report of an insurance company, its number, the name of
13 the company and the amount due.

14 [~~(b)~~] B. Before making a deposit to the tax
15 administration suspense fund, the administrator may deduct:
16 (1) expenses of sale of abandoned property;
17 (2) costs of mailing and publication in
18 connection with abandoned property;
19 (3) reasonable service charges; and
20 (4) expenses incurred in examining records of
21 holders of property and in collecting the property from those
22 holders."

23 Section 11. REPEAL.--Laws 1990, Chapter 6, Section 19 is
24 repealed.

25 Section 12. EFFECTIVE DATE.--The effective date of the
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1 provisions of this act is July 1, 2007.

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