

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 1

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

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

RELATING TO ELECTIONS; AMENDING THE VOTER ACTION ACT TO INCLUDE 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

underscored material = new
[bracketed material] = delete

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 judicial department subject to statewide elections and the
8 office of public regulation commissioner;

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

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

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

24 H. "qualifying contribution" means a donation of
25 five dollars (\$5.00) in the form of cash or a check or money

.169848.1GR

underscored material = new
[bracketed material] = delete

1 order payable to the fund in support of an applicant candidate
2 that is:

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

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

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

14 I. "qualifying period" means:

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

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

25 J. "secretary" means the secretary of state or the

.169848.1GR

underscored material = new
[bracketed material] = delete

1 office of the secretary of state; and

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

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

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

10 "1-19A-4. QUALIFYING CONTRIBUTIONS.--

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

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

16 (1) for all statewide judicial elective
17 offices, the number of qualifying contributions equal to one-
18 tenth of one percent of the number of voters in the state; and

19 (2) for the office of public regulation
20 commissioner, the number of qualifying contributions equal to
21 one-tenth of one percent of the number of voters in the
22 district of the office for which the candidate is running.

23 B. Applicant candidates may accept qualifying
24 contributions from persons who become registered within the
25 statutory time frame that would enable that person to vote in

.169848.1GR

underscored material = new
[bracketed material] = delete

1 the primary election.

2 C. Voters registered as independent are not
3 excluded from making qualifying contributions but shall be
4 registered within the statutory time frame as independent
5 [~~and~~].

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

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

10 "1-19A-5. SEED MONEY.--

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

17 B. An applicant candidate may collect and spend
18 seed money during the sixty days immediately preceding the
19 qualifying period and throughout the qualifying period.

20 C. An applicant candidate may not collect seed
21 money from a corporation, association or partnership formed
22 under state law or from labor organizations.

23 D. An applicant candidate may not collect or spend
24 seed money for any purpose after certification and before the
25 end of the election cycle for which the candidate was

.169848.1GR

underscored material = new
[bracketed material] = delete

1 certified, but after the election cycle may carry forward to
2 the next election cycle any unspent seed money to be used as
3 seed money.

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

7 F. After becoming an applicant candidate and prior
8 to certification, an applicant candidate shall not accept
9 contributions, except for seed money or qualifying
10 contributions.

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

19 H. An applicant candidate shall limit seed money
20 contributions and expenditures to five thousand dollars
21 (\$5,000)."

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

24 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS
25 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

.169848.1GR

underscored material = new
[bracketed material] = delete

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

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

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

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

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

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

24 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

25 A. There is created in the state treasury the

.169848.1GR

underscored material = new
[bracketed material] = delete

1 "public election fund" solely for the purposes of:

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

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

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

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

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

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

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

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

24 (4) money that remains unspent or unencumbered
25 by a certified candidate following the date of the general

.169848.1GR

underscored material = new
[bracketed material] = delete

1 election;

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

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

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

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

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

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

23 (3) one hundred thousand dollars (\$100,000)
24 from the insurance premium tax collected pursuant to Section
25 59A-6-2 NMSA 1978."

.169848.1GR

underscored material = new
[bracketed material] = delete

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

3 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

4 A. By ~~[April 1, 2005]~~ August 1, 2007, the secretary
5 shall determine the amount of money to be distributed to each
6 certified candidate for the election cycle ending with the
7 general election in ~~[2006]~~ 2008, based on the type of election
8 and the provisions of Subsections B through ~~[E]~~ F of this
9 section.

10 B. For contested primary elections, the amount of
11 money to be distributed to a certified candidate is equal to
12 ~~[the average amount of campaign expenditures made by all~~
13 ~~candidates receiving ten percent or greater of votes cast in~~
14 ~~all contested primary election races for the immediately~~
15 ~~preceding four primary elections for public regulation~~
16 ~~commissioner]~~ the following:

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

21 (2) for the office of justice of the supreme
22 court and judge of the court of appeals, fifteen cents (\$.15)
23 for each voter of the candidate's party in the state.

24 C. For uncontested primary elections, the amount of
25 money to be distributed to a certified candidate is equal to

.169848.1GR

underscored material = new
[bracketed material] = delete

1 fifty percent of the ~~[average]~~ amount ~~[of campaign expenditures~~
2 ~~made by all candidates during all uncontested primary election~~
3 ~~racess, or for contested races if the amount is lower, for the~~
4 ~~immediately preceding four primary elections for public~~
5 ~~regulation commissioner]~~ specified in Subsection B of this
6 section.

7 D. For contested general elections, the amount of
8 money to be distributed to a certified candidate is equal to
9 ~~[the average amount of campaign expenditures made by all~~
10 ~~candidates receiving thirty percent or greater of votes cast in~~
11 ~~all contested general election races for the immediately~~
12 ~~preceding four general elections for public regulation~~
13 ~~commissioner]~~ the following:

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

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

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

.169848.1GR

underscoring material = new
[bracketed material] = delete

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

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

.169848.1GR

underscored material = new
[bracketed material] = delete

1 fund, the secretary shall allocate the amount available between
2 the primary and general election cycles. This allocation shall
3 be based on the ratio of the two total amounts.

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

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

18 ~~F.]~~ H. At least every two years after January 1,
19 2007, the secretary shall evaluate and modify as necessary the
20 dollar values originally determined by Subsections B through E
21 ~~[or H]~~ of this section and shall consider and account for
22 inflation in the evaluations.

23 I. No money shall be distributed to candidates in
24 judicial retention elections. No money shall be distributed to
25 judicial candidates in uncontested general elections, provided

.169848.1GR

underscored material = new
[bracketed material] = delete

1 that if a general election race that is initially uncontested
2 later becomes contested, the certified judicial candidate shall
3 receive a distribution in accordance with Subsection D of this
4 section."

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

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

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

25 "[NEW MATERIAL] DISTRIBUTION--PUBLIC ELECTION FUND.--A

.169848.1GR

underscored material = new
[bracketed material] = delete

1 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
2 made to the public election fund from the amount deposited
3 pursuant to the provisions of Section 7-8A-13 NMSA 1978 in the
4 amount of one hundred thousand hundred dollars (\$100,000) per
5 month during fiscal year 2008 and subsequent fiscal years."

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

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

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

24 "7-8A-13. DEPOSIT OF FUNDS.--

25 [{"a}] A. Except as otherwise provided by this

.169848.1GR

underscored material = new
[bracketed material] = delete

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

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

.169848.1GR

underscoring material = new
[bracketed material] = delete

1 holders."

2 Section 11. REPEAL.--Laws 1990, Chapter 6, Section 19 is
3 repealed.

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

6 - 17 -

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25