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SENATE BILL 32

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO ELECTIONS; CLARIFYING CERTAIN PROVISIONS IN THE
VOTER ACTION ACT; ALLOWING MORE TIME FOR DISTRIBUTIONS TO
CANDIDATES; LIMITING POLITICAL PARTY CONTRIBUTIONS TO CERTIFIED
CANDIDATES; CHANGING HOW INDEPENDENT EXPENDITURES AFFECT
MATCHING FUND DISTRIBUTIONS; REDUCING THE DISTRIBUTION AMOUNT
FOR UNCONTESTED GENERAL ELECTION CONTESTS.

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

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

"1-19A-1. SHORT TITLE.--~~[Sections 1 through 17 of this
act]~~ Chapter 1, Article 19A NMSA 1978 may be cited as the
"Voter Action Act"."

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

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

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

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

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

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

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

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

24 G. "noncertified candidate" means either a
25 candidate running for a covered office who does not choose to

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1 participate in the Voter Action Act and who is not seeking to
2 be a certified candidate or a candidate who files a declaration
3 of intent to participate but who fails to qualify;

4 H. "political party" means an organization that is
5 qualified as a political party in New Mexico in accordance with
6 the provisions of Section 1-7-2 NMSA 1978;

7 [~~H.~~] I. "qualifying contribution" means a donation
8 of five dollars (\$5.00) in the form of cash or a check or money
9 order payable to the fund in support of an applicant candidate
10 that is:

11 (1) made by a registered voter who is eligible
12 to vote for the covered office that the applicant candidate is
13 seeking;

14 (2) made during the designated qualifying
15 period and obtained through efforts made with the knowledge and
16 approval of the applicant candidate; and

17 (3) acknowledged by a receipt that identifies
18 the contributor's name and residential address on forms
19 provided by the bureau of elections and that is signed by the
20 contributor, one copy of which is attached to the list of
21 contributors and sent to the bureau of elections;

22 [~~H.~~] J. "qualifying period" means:

23 (1) for major party applicant candidates for
24 covered offices, the period beginning October 1 immediately
25 preceding the election year and ending at 5:00 p.m. on the

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1 third Tuesday of March of the election year; and

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

7 [~~J.~~] K. "secretary" means the secretary of state or
8 the office of the secretary of state; and

9 [~~K.~~] L. "seed money" means a contribution raised
10 for the primary purpose of enabling applicant candidates to
11 collect qualifying contributions and petition signatures."

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

14 "1-19A-3. TERMS OF PARTICIPATION--DECLARATION OF
15 INTENT.--

16 A. A candidate choosing to obtain financing
17 pursuant to the Voter Action Act shall first file with the
18 secretary a declaration of intent to participate in that act as
19 an applicant candidate for a stated covered office. The
20 declaration of intent [~~shall~~] may be filed with the secretary
21 either prior to or during the qualifying period [~~according to~~]
22 on forms and in accordance with procedures developed by the
23 secretary.

24 B. An applicant candidate choosing to participate
25 in the Voter Action Act shall submit a declaration of intent

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1 prior to collecting any qualifying contributions and make
2 explicit in the declaration that the candidate has complied
3 with and will continue to comply with that act's contribution
4 and expenditure limits and all other requirements set forth in
5 that act and rules issued by the secretary.

6 C. A candidate shall not be eligible to become an
7 applicant candidate if the candidate has accepted any
8 qualifying contributions before filing a declaration of intent
9 pursuant to Subsection A of this section or has accepted any
10 other contributions totaling five hundred dollars (\$500) or
11 more or made expenditures totaling five hundred dollars (\$500)
12 or more between the beginning of the qualifying period and
13 filing a declaration of intent."

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

16 "1-19A-6. CERTIFICATION.--

17 A. Upon receipt of a final submittal of qualifying
18 contributions by an applicant candidate, the secretary shall
19 determine whether the applicant candidate has:

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

23 (2) collected and submitted the appropriate
24 number of qualifying contributions after filing a declaration
25 of intent;

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1 (3) qualified as a candidate pursuant to other
2 applicable state election law;

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

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

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

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

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

22 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS
23 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

24 A. All money distributed to a certified candidate
25 shall be used for that candidate's campaign-related purposes in

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1 the election cycle in which the money was distributed.

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

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

12 D. A certified candidate shall return to the
13 secretary, within thirty days after the primary election, any
14 amount that is unspent or unencumbered by the date of the
15 primary election for direct deposit into the fund.

16 E. A certified candidate shall return to the
17 secretary, within thirty days after the general election, any
18 amount that is unspent or unencumbered by the date of the
19 general election for direct deposit into the fund."

20 SECTION 6. Section 1-19A-8 NMSA 1978 (being Laws 2003,
21 Chapter 14, Section 8) is amended to read:

22 "1-19A-8. POLITICAL PARTY [~~EXPENDITURES~~] IN-KIND
23 CONTRIBUTIONS TO CERTIFIED CANDIDATES.--

24 A. A certified candidate may accept [~~monetary or~~]
25 in-kind contributions from a political party; provided that the

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1 aggregate [~~amount~~] value of such contributions from all
2 political [~~party committees~~] parties combined does not exceed
3 the equivalent of ten percent of the value of that candidate's
4 aggregate public financing per election cycle.

5 B. All in-kind contributions from a political party
6 distributed to certified candidates shall be used for campaign-
7 related purposes.

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

16 SECTION 7. Section 1-19A-9 NMSA 1978 (being Laws 2003,
17 Chapter 14, Section 9) is amended to read:

18 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

19 A. The secretary shall publish guidelines outlining
20 permissible campaign-related expenditures and penalties for
21 violations of the Voter Action Act by October 1, 2011.

22 B. Applicant candidates shall file a report listing
23 seed money contributions and expenditures with their
24 application for certification.

25 C. Applicant candidates shall file qualifying

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

5 D. Certified candidates shall report expenditures
6 according to the campaign reporting requirements specified in
7 the [~~Election Code~~] Campaign Reporting Act.

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

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

23 (1) for the primary election, by 5:00 p.m. on
24 the second Monday in May, by 5:00 p.m. on the eleventh day
25 before the election and by 5:00 p.m. on the Thursday before the

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1 election; and

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

6 SECTION 8. Section 1-19A-12 NMSA 1978 (being Laws 2003,
7 Chapter 14, Section 12) is amended to read:

8 "1-19A-12. TIMING OF FUND DISTRIBUTION.--

9 A. Beginning with the election cycle that ends with
10 the general election in 2006, the secretary shall distribute
11 money from the fund to certified candidates.

12 B. For a primary election certified candidate, the
13 secretary shall distribute the amount due to that certified
14 candidate for that covered office within [~~one week~~] ten
15 calendar days of certification.

16 C. For a candidate certified for the general
17 election, the secretary shall distribute the amount due to that
18 certified candidate for that covered office within [~~one week~~]
19 ten calendar days after the primary election or, for a minor
20 party or independent candidate, within [~~one week~~] ten calendar
21 days after certification of the candidate."

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

24 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

25 A. By August 1 [~~2007~~] of each odd-numbered year,

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1 the secretary shall determine the amount of money to be
2 distributed to each certified candidate for the election cycle
3 ending with the next general election [~~in 2008~~], based on the
4 type of election and the provisions of Subsections B through F
5 of this section.

6 B. For contested primary elections, the amount of
7 money to be distributed to a certified candidate is equal to
8 the following:

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

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

16 C. For uncontested primary elections, the amount of
17 money to be distributed to a certified candidate is equal to
18 fifty percent of the amount specified in Subsection B of this
19 section.

20 D. For contested general elections, the amount of
21 money to be distributed to a certified candidate is equal to
22 the following:

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

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

4 E. For uncontested general elections, except as
5 provided in Subsection I of this section, the amount of money
6 to be distributed to a certified candidate is equal to [~~fifty~~]
7 ten percent of the amount specified in Subsection D of this
8 section. If a general election race that is initially
9 uncontested later becomes contested because of the
10 qualification of an independent or minor party candidate to
11 appear on the ballot for that race, an additional amount of
12 money shall be distributed to the certified candidate to make
13 that candidate's total distribution amount equal to the amount
14 distributed pursuant to Subsection D of this section.

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

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1 general election. If the total amount to be distributed in the
2 primary election cycle, plus the added twenty percent and the
3 estimated total amount to be distributed in the general
4 election cycle, plus the added twenty percent, all taken
5 together, exceed the amount expected to be available in the
6 fund, the secretary shall allocate the amount available between
7 the primary and general election cycles. This allocation shall
8 be based on the ratio of the two total amounts.

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

16 H. At least every two years after January 1, 2007,
17 the secretary shall evaluate and modify as necessary the dollar
18 values originally determined by Subsections B through E of this
19 section and shall consider and account for inflation in the
20 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 10. Section 1-19A-14 NMSA 1978 (being Laws 2003,
4 Chapter 14, Section 14, as amended) is amended to read:

5 "1-19A-14. MATCHING FUNDS.--

6 A. When a certified or noncertified candidate has
7 one or more opponents who are certified candidates and the
8 candidate's campaign finance report or group of reports shows
9 that the sum of the candidate's expenditures and obligations
10 made, or funds raised or borrowed, whichever is greater, alone
11 or in conjunction with expenditures made independently of the
12 candidate to influence the election on behalf of the candidate,
13 exceeds the amount distributed to 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 opposing candidate.

17 B. The amount of expenditures made independently of
18 a certified candidate to influence the election on behalf of
19 the candidate and the value of any in-kind contributions from a
20 political party shall be subtracted from any excess amount
21 reported by an opposing candidate when calculating the amount
22 of matching funds to be distributed to the certified candidate.

23 C. Total matching funds to a certified candidate in
24 an election are limited to twice the amount originally
25 distributed to that candidate pursuant to Section 1-19A-13 NMSA

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