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SENATE BILL 12

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Peter Wirth

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO PUBLIC FINANCING OF ELECTIONS; REMOVING SEED MONEY REQUIREMENTS; ALLOWING CONTRIBUTIONS; CHANGING DISTRIBUTION AND MATCHING FUND AMOUNTS; CLARIFYING PENALTY PROVISIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE VOTER ACTION ACT.

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:

"1-19A-2. 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 any office of the  
11 judicial department subject to statewide elections and the  
12 office of public regulation commissioner;

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

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

22 ~~[G. "noncertified candidate" means either a~~  
23 ~~candidate running for a covered office who does not choose to~~  
24 ~~participate in the Voter Action Act and who is not seeking to~~  
25 ~~be a certified candidate or a candidate who files a declaration~~

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1 ~~of intent to participate but who fails to qualify;~~

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

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

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

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

17           ~~[F.]~~ H. "qualifying period" means:

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

22                   (2) for independent and minor party  
23 candidates, the period beginning [~~February~~] January 1 of the  
24 election year and ending that year at 5:00 p.m. on the filing  
25 date for independent or minor party candidates for the office

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1 for which the candidate is running; and

2 [J.] I. "secretary" means the secretary of state or  
3 the office of the secretary of state [~~and~~

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

7 SECTION 3. Section 1-19A-6 NMSA 1978 (being Laws 2003,  
8 Chapter 14, Section 6) is amended to read:

9 "1-19A-6. CERTIFICATION.--

10 A. Upon receipt of a final submittal of qualifying  
11 contributions by an applicant candidate, the secretary shall  
12 determine whether the applicant candidate has:

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

16 (2) collected and submitted the appropriate  
17 number of qualifying contributions after filing a declaration  
18 of intent;

19 (3) [~~qualified as~~] the qualifications to be a  
20 candidate pursuant to other applicable state election law;

21 (4) complied with [~~seed money~~] contribution  
22 and expenditure restrictions; and

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

25 B. The secretary shall certify applicant candidates

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1 complying with the requirements of this section as certified  
2 candidates as soon as possible and no later than ten days after  
3 final submittal of qualifying contributions and certification  
4 as a candidate pursuant to other applicable state election law.

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

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

15 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS  
16 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

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

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

24 C. A certified candidate shall limit total campaign  
25 expenditures and debts to the amount of money distributed to

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1 that candidate from the fund, money received from a political  
2 party pursuant to Section 1-19A-8 NMSA 1978 and contributions  
3 collected pursuant to Section 7 of this 2012 act. A certified  
4 candidate shall not accept contributions or loans from any  
5 other source except the certified candidate's political party,  
6 as specified in Section 1-19A-8 NMSA 1978 and contributions  
7 collected pursuant to Section 7 of this 2012 act.

8 D. A certified candidate shall return to the  
9 secretary, within thirty days 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 thirty days 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 5. 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 January 1, 2013.

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, all~~  
10 ~~noncertified candidates who have as an opponent a certified~~  
11 ~~candidate shall report to the secretary ten days before the~~  
12 ~~primary and general elections the amount of money spent by that~~  
13 ~~noncertified candidate. This report shall include all~~  
14 ~~previously unreported transactions through 5:00 p.m. two days~~  
15 ~~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 6. Section 1-19A-10 NMSA 1978 (being Laws 2003,  
7 Chapter 14, Section 10, as amended) is amended to read:

8 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

11 (1) financing the election campaigns of  
12 certified candidates for covered offices;

13 (2) paying administrative and enforcement  
14 costs of the Voter Action Act; and

15 (3) carrying out all other specified  
16 provisions of the Voter Action Act.

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

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~~] contributions to an  
12 applicant candidate that cannot be used for any other purpose;

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

16 (7) money appropriated by the legislature.

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

21 E. Three hundred thousand dollars (\$300,000) per  
22 year shall be collected and deposited in the subaccount for  
23 public regulation commission elections as follows:

24 (1) one hundred thousand dollars (\$100,000)  
25 from inspection and supervision fees collected pursuant to

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1 Section 62-8-8 NMSA 1978;

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

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

8 SECTION 7. A new section of the Voter Action Act is  
9 enacted to read:

10 "[NEW MATERIAL] ALLOWABLE CONTRIBUTIONS.--

11 A. An applicant candidate may collect contributions  
12 during the sixty days immediately preceding the qualifying  
13 period and throughout the qualifying period from qualified  
14 electors registered to vote in the candidate's district. An  
15 applicant candidate shall not accept contributions from any  
16 other source.

17 B. A certified candidate may collect contributions  
18 from qualified electors registered to vote in the candidate's  
19 district. A certified candidate shall not accept contributions  
20 from any other source except as allowed pursuant to Section  
21 1-19A-8 NMSA 1978.

22 C. A contribution to a candidate may not exceed one  
23 hundred dollars (\$100) per donor per election cycle."

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

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

16           A. After the initial distribution pursuant to  
17 Section 1-19A-13 NMSA 1978, the secretary shall distribute  
18 matching funds from the fund to a certified candidate in an  
19 amount equal to four times the amount of contributions that the  
20 candidate collected as an applicant candidate and as a  
21 certified candidate, subject to the limitation in Subsection B  
22 of this section. Matching funds shall be distributed within  
23 three days after the certified candidate has filed a campaign  
24 report required by the Campaign Reporting Act that indicates  
25 that the candidate has collected contributions in accordance

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1 with the provisions of Section 7 of this 2012 act.

2 B. The amount of all public money distributed to a  
3 certified candidate in an election is limited to three times  
4 the amount of the initial distribution allowed for that  
5 candidate pursuant to Section 1-19A-13 NMSA 1978.

6 C. No matching funds shall be distributed to a  
7 candidate in an uncontested election."

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

10 "1-19A-17. PENALTIES.--

11 A. In addition to other penalties that may be  
12 applicable, a person who violates a provision of the Voter  
13 Action Act is subject to a civil penalty of up to ten thousand  
14 dollars (\$10,000) per violation. In addition to a fine, a  
15 certified candidate found in violation of that act may be  
16 required to return to the fund all amounts distributed to the  
17 candidate from the fund. If the secretary makes a  
18 determination that a violation of that act has occurred, the  
19 secretary shall impose a fine [~~or~~] and transmit the finding to  
20 the attorney general for criminal prosecution pursuant to  
21 Subsection B of this section. In determining whether a  
22 certified candidate is in violation of the expenditure limits  
23 of that act, the secretary may consider as a mitigating factor  
24 any circumstances out of the candidate's control.

25 B. A person who willfully or knowingly violates the

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1 provisions of the Voter Action Act or rules of the secretary or  
2 knowingly makes a false statement in a report required by that  
3 act, including reports required by the Campaign Reporting Act,  
4 is guilty of a fourth degree felony and, if ~~he~~ the person is  
5 a certified candidate, shall return to the fund all money  
6 distributed to that candidate."

7 SECTION 10. REPEAL.--Section 1-19A-5 NMSA 1978 (being  
8 Laws 2003, Chapter 14, Section 5, as amended) is repealed.

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