

SENATE BILL 160

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Katy Duhigg and Peter Wirth

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO ELECTIONS; INCLUDING CANDIDATES FOR THE OFFICE OF DISTRICT JUDGE IN THE VOTER ACTION ACT; PRESCRIBING DISTRIBUTION AMOUNTS SRC→**AND QUALIFYING CONTRIBUTIONS**←SRC BASED ON THE NUMBER OF SRC→**REGISTERED**←SRC VOTERS IN A DISTRICT; MAKING CONFORMING CHANGES; AMENDING AND REPEALING SECTIONS OF THE VOTER ACTION ACT.

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

.218615.3AIC February 12, 2021 (10:46pm)

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SECTION 1. 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 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 to the Voter Action Act and is certified as a Voter Action Act candidate;

C. "contested" means there are more candidates for a position than the number to be elected to that position;

D. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for the purpose of supporting or opposing the nomination for election or election of a candidate for public office, including payment of a debt incurred in an election campaign and also including a coordinated expenditure, but "contribution" does not include:

(1) a qualifying contribution;

(2) the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate; or

(3) the value of the incidental use of the

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candidate's personal property, home or business office for campaign purposes;

E. "coordinated expenditure" means an expenditure that is made:

(1) by a person other than a candidate or campaign committee;

(2) at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of such a candidate, campaign committee or political party; and

(3) for the purpose of:

(a) supporting or opposing the nomination or election of a candidate; or

(b) paying for an advertisement that refers to a clearly identified candidate and that is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election in which the candidate is on the ballot;

F. "covered office" means any office of the judicial department subject to statewide elections and the office of [~~public regulation commissioner~~] district judge;

G. "expenditure" means a payment, transfer or distribution of, or a promise to pay, transfer or distribute,

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any money or other thing of value for the purpose of supporting or opposing the nomination or election of a candidate;

H. "fund" means the public election fund;

I. "qualifying contribution" means a donation of five dollars (\$5.00) in the form of cash, a check, a money order or an electronic form of payment, as prescribed by the secretary, and payable to the fund in support of an applicant candidate that is:

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

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

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

J. "qualifying period" means:

(1) for candidates who are seeking public financing for a primary election or for both a primary and a general election, the period beginning October 1 immediately preceding the election year and ending at 5:00 p.m. on the third Tuesday of March of the election year; and

(2) for candidates who are seeking public

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financing only for a general election, the period beginning January 1 of the election year and ending that year at 5:00 p.m. on the twenty-third day following the primary election for the office for which the candidate is running; and

K. "secretary" means the secretary of state or the office of the secretary of state."

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

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

A. Applicant candidates shall obtain qualifying contributions as follows:

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

(2) for the office of [public regulation commissioner] district judge SRC, ~~the number of qualifying contributions equal to one-tenth [of one] percent of the number of voters in the district of the office for which the candidate is running.~~ ←SRC SRC→:

(a) four hundred qualifying contributions in a district with four hundred thousand or more voters;

(b) three hundred qualifying contributions in a district with two hundred thousand or more

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but fewer than four hundred thousand voters;

(c) two hundred qualifying contributions  
in a district with one hundred thousand or more but fewer than  
two hundred thousand voters; and

(d) one hundred qualifying contributions  
in a district with fewer than one hundred thousand voters. ←SRC

B. Applicant candidates may accept qualifying contributions from persons who become registered within the statutory time frame that would enable ~~[that person]~~ those persons to vote in the primary election.

C. Voters registered as independent are not excluded from making qualifying contributions but shall be registered within the statutory time frame as independent.

D. ~~[No]~~ A payment, gift or anything of value shall not be given in exchange for a qualifying contribution."

SECTION 3. Section 1-19A-10 NMSA 1978 (being Laws 2003, Chapter 14, Section 10, as amended) is amended to read:

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

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

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

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

(3) carrying out all other specified

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provisions of the Voter Action Act.

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

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

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

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

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

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

(5) unspent contributions to a candidate;

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

(7) money appropriated by the legislature or

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as otherwise provided by law.

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

~~E. Two hundred thousand dollars (\$200,000) per year shall be collected and deposited in the subaccount for public regulation commission elections as follows:~~

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

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

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

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

A. By September 1 of each odd-numbered year, the secretary shall determine the amount of money to be distributed to each certified candidate for the election cycle ending with the next general election, based on the type of election and the provisions of Subsections B through G of this section.

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

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(1) for the office of [~~public regulation commissioner, twenty-five cents (\$.25)~~] district judge, for each voter of the candidate's party in the district of the office for which the candidate is running:

(a) fifteen cents (\$.15) in a district with four hundred thousand or more SRC→registered←SRC voters;

(b) twenty-five cents (\$.25) in a district with two hundred thousand or more but fewer than four hundred thousand SRC→registered←SRC voters;

(c) forty cents (\$.40) in a district with one hundred thousand or more but fewer than two hundred thousand SRC→registered←SRC voters; and

(d) fifty-five cents (\$.55) in a district with fewer than one hundred thousand SRC→registered←SRC voters; and

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

C. For uncontested primary elections in which another candidate has filed a declaration of candidacy for nomination in another party's primary for the same office and that candidate's primary is contested, the amount of money to be distributed to a certified candidate is equal to twenty percent of the amount specified in Subsection B of this section.

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D. For uncontested primary elections in which another candidate has filed a declaration of candidacy for nomination in another party's primary for the same office, but no primary for the office is contested, the amount of money to be distributed to a certified candidate is equal to the average of the amount each candidate would receive pursuant to Subsection B of this section.

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

(1) for the office of [~~public regulation commissioner, twenty-five cents (\$.25)~~] district judge, for each voter in the district of the office for which the candidate is running:

(a) fifteen cents (\$.15) in a district with four hundred thousand or more SRC→registered←SRC voters;

(b) twenty-five cents (\$.25) in a district with two hundred thousand or more but fewer than four hundred thousand SRC→registered←SRC voters;

(c) forty cents (\$.40) in a district with one hundred thousand or more but fewer than two hundred thousand SRC→registered←SRC voters; and

(d) fifty-five cents (\$.55) in a district with fewer than one hundred thousand SRC→registered←SRC voters; and

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

F. If a general election race that is initially uncontested later becomes contested because of the qualification of a candidate for that race, an amount of money shall be distributed to the certified candidate to make that candidate's distribution amount equal to the amount distributed pursuant to Subsection E of this section.

G. Once the certification for candidates for the primary election has been completed, the secretary shall calculate the total amount of money to be distributed in the primary election cycle, based on the number of certified candidates and the allocations specified in this section. The secretary shall also prepare an estimate of the total amount of money that might be distributed in the general election cycle. If the total amount to be distributed in the primary election cycle and the estimated total amount to be distributed in the general election cycle taken together exceed the amount expected to be available in the fund, the secretary shall allocate the amount available between the primary and general election cycles. This allocation shall be based on the ratio of the two total amounts.

H. If the allocation specified in Subsection G of this section is greater than the total amount available for

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distribution, then the amounts to be distributed to individual candidates, specified in Subsections B through F of this section, shall each be reduced by the same percentage as the reduction by which the total amount needed has been reduced relative to the total amount available.

I. At least every two years [~~after January 1, 2007~~], the secretary shall evaluate and modify as necessary the dollar values originally determined by Subsections B through F of this section and shall increase the amounts by the percentage of the preceding two calendar years' increase of the consumer price index for all urban consumers, United States city average for all items, published by the United States department of labor.

J. No money shall be distributed to candidates in judicial retention elections, and except as provided in Subsections C, D and F of this section, no money shall be distributed to a candidate in an uncontested election."

SECTION 5. REPEAL.--Laws 2020, Chapter 9, Sections 10 through 13 are repealed.