

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 67

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

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; DECLARING AN
EMERGENCY.

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,

.180421.1

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 Chapter 14, Section 2, as amended) is amended to read:

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

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

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

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

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

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

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

25 G. "noncertified candidate" means either a

.180421.1

underscored material = new
[bracketed material] = delete

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

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

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

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

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

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

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

24 (1) for major party applicant candidates for
25 covered offices, the period beginning October 1 immediately

.180421.1

underscored material = new
[bracketed material] = delete

1 preceding the election year and ending at 5:00 p.m. on the
2 third Tuesday of March of the election year; and

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

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

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

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

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

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

25 B. An applicant candidate choosing to participate

.180421.1

underscored material = new
[bracketed material] = delete

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

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

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

17 "1-19A-6. CERTIFICATION.--

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

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

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

.180421.1

underscored material = new
[bracketed material] = delete

1 of intent;

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

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

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

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

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

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

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

25 A. All money distributed to a certified candidate

.180421.1

underscored material = new
[bracketed material] = delete

1 shall be used for that candidate's campaign-related purposes in
2 the election cycle in which the money was distributed.

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

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

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

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

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

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

25 A. A certified candidate may accept [~~monetary or~~]

.180421.1

underscored material = new
[bracketed material] = delete

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

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

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

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

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

20 A. The secretary shall publish guidelines outlining
21 permissible campaign-related expenditures and penalties for
22 violations of the Voter Action Act by March 1, 2010.

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

.180421.1

underscored material = new
[bracketed material] = delete

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

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

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

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

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

.180421.1

underscored material = new
[bracketed material] = delete

1 before the election and by 5:00 p.m. on the Thursday before the
2 election; and

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

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

9 "1-19A-12. TIMING OF FUND DISTRIBUTION.--

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

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

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

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

25 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

.180421.1

underscored material = new
[bracketed material] = delete

1 A. By August 1 [2007] of each odd-numbered year,
2 the secretary shall determine the amount of money to be
3 distributed to each certified candidate for the election cycle
4 ending with the next general election [~~in 2008~~], based on the
5 type of election and the provisions of Subsections B through F
6 of this section.

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

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

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

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

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

24 (1) for the office of public regulation
25 commissioner, twenty-five cents (\$.25) for each voter in the

.180421.1

underscored material = new
[bracketed material] = delete

1 district of the office for which the candidate is running; and
2 (2) for the office of justice of the supreme
3 court and judge of the court of appeals, fifteen cents (\$.15)
4 for each voter in the state.

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

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

.180421.1

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

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

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

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

underscored material = new
[bracketed material] = delete

1 later becomes contested, the certified judicial candidate shall
2 receive a distribution in accordance with Subsection D of this
3 section."

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

6 "1-19A-14. MATCHING FUNDS.--

7 A. When a certified or noncertified candidate has
8 one or more opponents who are certified candidates and the
9 candidate's campaign finance report or group of reports shows
10 that the sum of the candidate's expenditures and obligations
11 made, or funds raised or borrowed, whichever is greater, alone
12 or in conjunction with expenditures made independently of the
13 candidate to influence the election on behalf of the candidate,
14 exceeds the amount distributed to an opposing certified
15 candidate, the secretary shall issue immediately to any
16 opposing certified candidate an additional amount equivalent to
17 the excess amount reported by the opposing candidate.

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

24 C. Total matching funds to a certified candidate in
25 an election are limited to twice the amount originally

.180421.1

underscoring material = new
[bracketed material] = delete

1 distributed to that candidate pursuant to Section 1-19A-13 NMSA
2 1978."

3 Section 11. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect immediately.

5 - 15 -

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25