

1 SENATE BILL 298

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Peter Wirth

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9  
10 AN ACT

11 RELATING TO ELECTIONS; INCLUDING CANDIDATES FOR THE OFFICES OF  
12 STATE SENATOR AND STATE REPRESENTATIVE IN THE VOTER ACTION ACT;  
13 PRESCRIBING CAMPAIGN CONTRIBUTION LIMITS FROM SOURCES OTHER  
14 THAN QUALIFIED ELECTORS; ESTABLISHING DISTRIBUTION AMOUNTS FOR  
15 MAJOR PARTY, MINOR PARTY AND UNAFFILIATED CANDIDATES; AMENDING  
16 SECTIONS OF THE VOTER ACTION ACT TO REMOVE REFERENCES TO PUBLIC  
17 REGULATION COMMISSIONER AS AN ELECTED OFFICE AND REPEALING THE  
18 RELATED SESSION LAWS WITH DELAYED EFFECTIVE DATES.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

23 "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

24 A. "applicant candidate" means a candidate who is  
25 running for a covered office and who is seeking to be a

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1 certified candidate in a primary or general election;

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

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

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

16 (1) a qualifying contribution;

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

21 (3) the value of the incidental use of the  
22 candidate's personal property, home or business office for  
23 campaign purposes;

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

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

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

8 (3) for the purpose of:

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

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

17 F. "covered office" means any office of the  
18 judicial department subject to statewide elections and the  
19 ~~[office of public regulation commissioner]~~ offices of state  
20 senator and state representative;

21 G. "expenditure" means a payment, transfer or  
22 distribution of, or a promise to pay, transfer or distribute,  
23 any money or other thing of value for the purpose of supporting  
24 or opposing the nomination or election of a candidate;

25 H. "fund" means the public election fund;

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

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

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

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

16           J. "qualifying period" means:

17                   (1) for candidates who are seeking public  
18 financing for a primary election or for both a primary and a  
19 general election, 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 candidates who are seeking public  
23 financing only for a general election, the period beginning  
24 January 1 of the election year and ending that year at 5:00  
25 p.m. on the twenty-third day following the primary election for

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1 the office for which the candidate is running; and

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

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

6 "1-19A-4. QUALIFYING CONTRIBUTIONS.--

7 A. Applicant candidates shall obtain qualifying  
8 contributions as follows:

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

13 (2) for the [~~office of public regulation~~  
14 ~~commissioner, the number of~~] offices of state senator and state  
15 representative, one hundred fifty qualifying contributions  
16 [~~equal to one-tenth of one percent of the number of voters in~~  
17 ~~the district of the office for which the candidate is running~~].

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

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

25 D. [~~No~~] A payment, gift or anything of value shall

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1 not be given in exchange for a qualifying contribution."

2 SECTION 3. Section 1-19A-4.1 NMSA 1978 (being Laws 2019,  
3 Chapter 175, Section 8) is amended to read:

4 "1-19A-4.1. ALLOWABLE CONTRIBUTIONS.--

5 A. An applicant candidate may collect contributions  
6 during the sixty days immediately preceding the qualifying  
7 period and throughout the qualifying period from qualified  
8 electors registered to vote in the state. An applicant  
9 candidate shall not accept contributions from any other source.

10 B. A certified candidate may collect contributions  
11 from qualified electors registered to vote in the state. A  
12 certified candidate shall not accept contributions from any  
13 other source, except as allowed pursuant to Subsection D of  
14 this section and Section 1-19A-8 NMSA 1978.

15 C. Total contributions from a qualified elector to  
16 a candidate shall not exceed one hundred dollars (\$100) per  
17 election cycle.

18 D. A certified candidate for the office of state  
19 senator or state representative may accept contributions of one  
20 hundred dollars (\$100) or less from any source; provided that  
21 in the aggregate the contributions accepted pursuant to this  
22 subsection shall not exceed fifty percent of the amount  
23 distributed to the candidate in a primary or general election  
24 cycle pursuant to Section 1-19A-13 NMSA 1978."

25 SECTION 4. Section 1-19A-13 NMSA 1978 (being Laws 2003,

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1 Chapter 14, Section 13, as amended) is amended to read:

2 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

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

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

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

15 ~~(2)] (1) for the office of justice of the  
16 supreme court ~~[and]~~ or judge of the court of appeals, fifteen  
17 cents (\$.15) for each voter of the candidate's party in the  
18 state;~~

19 (2) for the office of state senator:

20 (a) for a major party candidate, forty  
21 thousand dollars (\$40,000); and

22 (b) for a minor party or unaffiliated  
23 candidate, seventy percent of the amount distributed to a major  
24 party candidate; and

25 (3) for the office of state representative:

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1                    (a) for a major party candidate, twenty-  
2 five thousand dollars (\$25,000); and

3                    (b) for a minor party or unaffiliated  
4 candidate, seventy percent of the amount distributed to a major  
5 party candidate.

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

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

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

4                   (2) for the office of state senator:

5                               (a) for a major party candidate, forty  
6 thousand dollars (\$40,000); and

7                               (b) for a minor party or unaffiliated  
8 candidate, seventy percent of the amount distributed to a major  
9 party candidate; and

10                   (3) for the office of state representative:

11                               (a) for a major party candidate, twenty-  
12 five thousand dollars (\$25,000); and

13                               (b) for a minor party or unaffiliated  
14 candidate, seventy percent of the amount distributed to a major  
15 party candidate.

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

22                   G. Once the certification for candidates for the  
23 primary election has been completed, the secretary shall  
24 calculate the total amount of money to be distributed in the  
25 primary election cycle, based on the number of certified

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1 candidates and the allocations specified in this section. The  
2 secretary shall also prepare an estimate of the total amount of  
3 money that might be distributed in the general election cycle.  
4 If the total amount to be distributed in the primary election  
5 cycle and the estimated total amount to be distributed in the  
6 general election cycle taken together exceed the amount  
7 expected to be available in the fund, the secretary shall  
8 allocate the amount available between the primary and general  
9 election cycles. This allocation shall be based on the ratio  
10 of the two total amounts.

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

18 I. 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 F  
21 of this section and shall increase the amounts by the  
22 percentage of the preceding two calendar years' increase of the  
23 consumer price index for all urban consumers, United States  
24 city average for all items, published by the United States  
25 department of labor.

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