

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 10 ELECTIONS AND ELECTED OFFICIALS
PART 27 VOTER ACTION ACT

1.10.27.1 ISSUING AGENCY: Office of the Secretary of State
[1.10.27.1 NMAC - N, 9/30/2005]

1.10.27.2 SCOPE: This rule applies to any special statewide election, general election, primary election, countywide election or elections to fill vacancies in the office of United States representative, municipal, special district elections and regular or special school district elections as modified by the School Election Law (Sections 1-22-1 to 1-22-19 NMSA 1978).
[1.10.27.2 NMAC - N, 9/30/2005]

1.10.27.3 STATUTORY AUTHORITY: Election Code, Section 1-2-1 NMSA 1978; Section 1-19A-1 to 1-19A-17 NMSA 1978.
[1.10.27.3 NMAC - N, 9/30/2005]

1.10.27.4 DURATION: Permanent.
[1.10.27.4 NMAC - N, 9/30/2005]

1.10.27.5 EFFECTIVE DATE: September 30, 2005 unless a later date is cited at the end of a section.
[1.10.27.5 NMAC - N, 9/30/2005]

1.10.27.6 OBJECTIVE: The secretary of state shall adopt rules to ensure effective administration of the Voter Action Act (Section 1-19A-1 to 1-19A-17 NMSA 1978) pursuant to Section 1-19A-15 NMSA 1978. The rules shall include procedures for qualifications, certification and disbursement of revenues and return of unspent fund revenues; obtaining qualifying contributions; certification of candidates; collection of revenues; and return of fund disbursements and other money to the fund.
[1.10.27.6 NMAC - N, 9/30/2005]

1.10.27.7 DEFINITIONS:

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. An applicant candidate becomes a certified candidate upon submittal and the secretary of state determination under Sections 1-19A-4 to 1-19A-6 NMSA 1978.

C. “Election cycle” means the period beginning on January 1 after the last general election and ending on December 31 after the general election.

[1.10.27.7 NMAC - N, 9/30/2005; A, 10/15/2007; A, 7/1/2023]

1.10.27.8 QUALIFICATIONS AND CERTIFICATION:

A. A candidate choosing to obtain financing pursuant to the Voter Action Act shall abide by Section 1-19A-3 NMSA 1978 to become an applicant candidate.

B. A candidate choosing to become a certified candidate shall abide by Section 1-19A-4 NMSA 1978 for obtaining qualifying contributions.

C. A candidate choosing to become a certified candidate may abide by Section 1-19A-5 NMSA 1978 for obtaining seed money.

D. A candidate choosing to become a certified candidate shall abide by Section 1-19A-6 NMSA 1978 for submittal of certification documents. A candidate shall submit the qualifying contributions by a consolidated cashiers check or by cash.

E. The secretary of state shall determine whether an applicant candidate shall become a certified candidate pursuant to Section 1-19A-6 NMSA 1978.

[1.10.27.8 NMAC - N, 9/30/2005; A, 10/15/2007]

1.10.27.9 DETERMINATION OF FUND DISTRIBUTION:

- A. On August 1, of every odd year, the secretary of state shall determine the amount of funds available for distribution pursuant to Section 1-19A-13 NMSA 1978.
- B. To determine the amount available for a contested primary election, the secretary of state shall follow Subsection B of Section 1-19A-13 NMSA 1978.
- C. To determine the amount available for an uncontested primary election, the secretary of state shall follow Subsection C of Section 1-19A-13 NMSA 1978.
- D. To determine the amount available for a contested general election, the secretary of state shall follow Subsection D of Section 1-19A-13 NMSA 1978.
- E. To determine the amount available for an uncontested general election, the secretary of state shall follow Subsection E of Section 1-19A-13 NMSA 1978.
- F. The Voter Action Act does not include judicial retention elections.
[1.10.27.9 NMAC - N, 9/30/2005; A, 10/15/2007]

1.10.27.10 DISTRIBUTION OF FUND:

- A. Once the certification for candidates for the primary election has been completed, the secretary of state shall calculate the total amount of money to be distributed in the primary election cycle based on the number of certified candidates and allocations specified in 1.10.27.9 NMAC.
- B. The secretary of state shall abide by Subsection F of Section 1-19A-13 NMSA 1978 if the total needs to be adjusted.
- C. The secretary of state shall calculate the total amount of money to be distributed in the general election pursuant to 1.10.26.9 NMAC and Subsection F of Section 1-19A-13 NMSA 1978.
- D. If the allocation specified in Subsection F of Section 1-19A-13 is greater than the total amount available for distribution, then the amounts to be distributed to individual candidates shall be reduced pursuant to Subsection G of Section 1-19A-13 NMSA 1978.
- E. The secretary of state shall abide by Section 1-19A-14 NMSA 1978 if the total needs to be adjusted due to the actions of a noncertified candidate.
[1.10.27.10 NMAC - N, 9/30/2005]

1.10.27.11 FUND REVENUES:

- A. The legislature has set up the public election fund pursuant to Section 1-19A-10 NMSA 1978 governing the collection of revenues to provide for the fund.
- B. A certified candidate shall return to the fund unspent fund revenues and any other relevant funds pursuant to Subsection E of Section 1-19A-5, Subsections B to E of Section 1-19A-7 and Subsection D of Section 1-19A-16 NMSA 1978.
[1.10.27.11 NMAC - N, 9/30/2005]

1.10.27.12 ELECTRONIC FUND TRANSFER

- A. Pursuant to Subsection I of Section 1-19A-2 NMSA 1978, qualifying contributions may be accepted by the candidate via an electronic form of payment. The following kinds of electronic transactions may be accepted by the candidate: debit and credit card, direct bank to bank transfers or online or mobile payment services such as PayPal, Apple Pay, Google Pay, or Venmo.
- B. The qualifying candidate may only accept a qualifying contribution made by a credit card or a debit card via the internet or where the card is not physically present if, at the time the qualifying contribution is made, the contributor provides the card security code assigned to and printed or imprinted on the card and the billing address associated with the card.
- C. The candidate or their representative may accept an electronic fund transfer (“EFT”) but the qualifying contribution shall be kept separate from the candidate’s bank account established pursuant to the Campaign Reporting Act. A dedicated bank account shall be created by the candidate’s campaign committee to accept the electronic transfer of funds for purposes of collecting qualifying contributions.
- D. The candidate shall collect a qualifying contribution receipt as is used for other forms of payment.
- E. If the EFT service provider collects a transaction fee, the qualifying candidate shall provide an accounting of the transaction fee on the qualifying contribution receipt.
- F. At the time of the qualifying appointment with the secretary of state, the qualifying candidate shall submit a check that includes all electronic payments received, payable to the public election fund. Based upon the information on the qualifying receipts and the total amount of the check, the secretary of state shall verify that the qualifying contributions minus any transaction fees have been accounted for.

G. Additionally, the qualifying candidate shall submit a separate check, payable to the public election fund, to reimburse the fund for any transaction fees deducted from the qualifying contribution by the EFT service provider. The qualifying candidate shall also report this expense as an expenditure of the campaign on the report required pursuant to the Campaign Reporting Act.
[1.10.27.12 NMAC - N, 7/1/2023]

History of 1.10.27 NMAC: [RESERVED]