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HOUSE BILL 80

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Brian Egolf

AN ACT

RELATING TO ETHICS; ENACTING THE STATE ETHICS COMMISSION ACT;
CREATING THE STATE ETHICS COMMISSION; PROVIDING FOR AN
EXECUTIVE DIRECTOR; PROVIDING FOR ANNUAL ETHICS TRAINING AND
THE PUBLICATION OF ETHICS GUIDES; REQUIRING THE DEVELOPMENT OF
A PROPOSED ETHICS CODE; PROVIDING FOR THE ISSUANCE OF ADVISORY
OPINIONS; TRANSFERRING THE ADMINISTRATION OF CERTAIN ACTS TO
THE STATE ETHICS COMMISSION; PROVIDING FOR THE FILING OF
COMPLAINTS AGAINST PUBLIC OFFICERS AND EMPLOYEES, CANDIDATES,
GOVERNMENT CONTRACTORS AND LOBBYISTS FOR ETHICS VIOLATIONS;
PROVIDING FOR INVESTIGATIONS AND HEARINGS; GRANTING SUBPOENA
POWERS; REQUIRING CONFIDENTIALITY; PROHIBITING RETALIATION;
PROVIDING PENALTIES.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1

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1 through 16 of this act may be cited as the "State Ethics
2 Commission Act".

3 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
4 State Ethics Commission Act:

5 A. "adjunct agency" means an agency, board,
6 commission, office or other instrumentality, not assigned to an
7 elected constitutional officer, that is excluded from any
8 direct or administrative attachment to a department and that
9 retains policymaking and administrative autonomy separate from
10 any other agency of state government;

11 B. "commission" means the state ethics commission;

12 C. "commissioner" means a member of the commission;

13 D. "complainant" means a person who files an ethics
14 complaint with the commission;

15 E. "director" means the executive director of the
16 commission;

17 F. "elected office" means a state or county office
18 the candidates for which are subject to the provisions of the
19 Campaign Reporting Act;

20 G. "ethics violation" means an action that is a
21 violation of the Gift Act; the Governmental Conduct Act; the
22 Procurement Code; the Lobbyist Regulation Act; the Financial
23 Disclosure Act; the Voter Action Act; Chapter 1, Article 19
24 NMSA 1978, including the Campaign Reporting Act; or any code of
25 ethics adopted pursuant to those laws or Section 5 of the State

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1 Ethics Commission Act;

2 H. "government contractor" means a person who has a
3 contract with a state agency or who has submitted a competitive
4 sealed proposal or competitive sealed bid for a contract with a
5 state agency;

6 I. "legislative body" means the house of
7 representatives or the senate;

8 J. "lobbying" means attempting to influence:

9 (1) a decision related to any matter to be
10 considered or being considered by the legislative branch of
11 state government or any legislative committee or to any
12 legislative matter requiring action by the governor or awaiting
13 action by the governor; or

14 (2) an official action;

15 K. "lobbyist" means a person who is compensated for
16 the specific purpose of lobbying; who is designated by an
17 interest group or organization to represent it on a substantial
18 or regular basis for the purpose of lobbying; or who, in the
19 course of the person's employment, is engaged in lobbying on a
20 substantial or regular basis. "Lobbyist" does not include:

21 (1) a person who appears on the person's own
22 behalf in connection with legislation or an official action;

23 (2) an elected or appointed officer of the
24 state, a political subdivision of the state or an Indian
25 nation, tribe or pueblo who is acting in the officer's official

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1 capacity;

2 (3) a state employee or an employee of a
3 political subdivision of the state, specifically designated by
4 an elected or appointed officer, who appears before a
5 legislative committee or in a rulemaking proceeding only to
6 explain the effect of legislation or a rule on that employee's
7 agency or political subdivision; provided that the elected or
8 appointed officer files the designation with the commission and
9 makes it available for public inspection;

10 (4) a designated member of the staff of an
11 elected state official; provided that the elected state
12 official files the designation with the commission and makes it
13 available for public inspection;

14 (5) a legislator or legislative staff member;

15 (6) a witness called by a legislative
16 committee or administrative agency to appear before it in
17 connection with legislation or an official action;

18 (7) a person who provides only oral or written
19 public testimony in connection with a legislative committee or
20 in a rulemaking proceeding and whose name and the interest on
21 behalf of which the person testifies have been clearly and
22 publicly identified; or

23 (8) a publisher, owner or employee of the news
24 media while gathering or disseminating news or editorial
25 comment to the general public in the ordinary course of

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1 business;

2 L. "official action" means a decision, action or
3 nonaction of a state official or state agency in a rulemaking
4 or other matter, except an adjudicatory proceeding;

5 M. "political party" means a political party that
6 has complied with the provisions of Section 1-7-2 NMSA 1978;

7 N. "public employee" means a person employed by the
8 state or by a political subdivision of the state;

9 O. "public officer" means a state official or a
10 person elected to an office of a political subdivision of the
11 state;

12 P. "respondent" means a public officer, public
13 employee, candidate for elected office, government contractor
14 or lobbyist who is the subject of a complaint filed with or by
15 the commission;

16 Q. "state agency" means any department, commission,
17 council, board, committee, agency or institution of the
18 executive or legislative branch of government of the state or
19 any instrumentality of the state, including the New Mexico
20 mortgage finance authority, the New Mexico finance authority,
21 the New Mexico exposition center authority, the New Mexico
22 hospital equipment loan council and the New Mexico renewable
23 energy transmission authority;

24 R. "state employee" means an employee of a state
25 agency; and

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1 S. "state official" means a person elected to an
2 office of the executive or legislative branch of the state or a
3 person appointed to a state agency.

4 SECTION 3. [NEW MATERIAL] STATE ETHICS COMMISSION
5 CREATED--MEMBERSHIP--TERMS--REMOVAL.--

6 A. The "state ethics commission" is created as an
7 adjunct agency of the executive branch under the direction of
8 eleven commissioners, appointed as follows:

9 (1) five commissioners appointed by the
10 governor, no more than three of whom shall be of the same
11 political party and at least one commissioner shall be
12 appointed from each congressional district;

13 (2) one commissioner appointed by the
14 president pro tempore of the senate;

15 (3) one commissioner appointed by the minority
16 floor leader of the senate;

17 (4) one commissioner appointed by the speaker
18 of the house of representatives;

19 (5) one commissioner appointed by the minority
20 floor leader of the house of representatives; and

21 (6) two commissioners appointed by the chief
22 justice of the supreme court, who shall be district court
23 judges and who shall not be of the same political party and
24 shall not be appointed from the same congressional district.

25 B. The appointing authorities shall give due regard

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1 to the cultural diversity of the state and to achieving
2 geographical representation from across the state. No more
3 than five commissioners shall be registered members of the same
4 political party.

5 C. Each appointing authority shall file letters of
6 appointment with the secretary of state.

7 D. Commissioners shall be appointed for staggered
8 terms of four years beginning July 1, 2016. The initial
9 commissioners shall draw lots to determine which three
10 commissioners serve an initial term of two years, which four
11 commissioners serve an initial term of three years and which
12 four commissioners serve an initial term of four years;
13 thereafter, all commissioners shall serve four-year terms.
14 Members shall serve until their successors are appointed and
15 qualified.

16 E. A person shall not serve as a commissioner for
17 more than two consecutive terms. A vacancy on the commission
18 shall be filled by appointment by the original appointing
19 authority for the remainder of the unexpired term.

20 F. The commission shall meet as necessary to carry
21 out its duties pursuant to the State Ethics Commission Act.
22 Commissioners are entitled to receive per diem and mileage as
23 provided in the Per Diem and Mileage Act and shall receive no
24 other compensation, perquisite or allowance.

25 G. The commission shall elect a chair, who shall be

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1 one of the governor's appointees, and a vice chair and other
2 officers it deems necessary.

3 H. Six commissioners constitute a quorum for the
4 transaction of business. No action shall be taken by the
5 commission unless at least six members concur.

6 I. A commissioner may be removed only for
7 incompetence, neglect of duty or malfeasance in office. A
8 proceeding for the removal of a commissioner may be commenced
9 by the commission or by the attorney general upon the request
10 of the commission. The supreme court has exclusive
11 jurisdiction over proceedings to remove commissioners, and its
12 decision shall be final. A commissioner shall be given notice
13 of hearing and an opportunity to be heard before the
14 commissioner is removed.

15 SECTION 4. [NEW MATERIAL] COMMISSIONERS--QUALIFICATIONS--
16 LIMITATIONS.--

17 A. To qualify for appointment to the commission, a
18 person shall:

- 19 (1) be a resident of New Mexico; and
20 (2) not have changed political party
21 affiliation for at least one year prior to appointment.

22 B. Before entering upon the duties of the office of
23 commissioner, each commissioner shall review the State Ethics
24 Commission Act and other laws and rules pertaining to the
25 commission's responsibilities and to ethics and governmental

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1 conduct in New Mexico. Each commissioner shall take the oath
2 of office as provided in Article 20, Section 1 of the
3 constitution of New Mexico.

4 C. During a commissioner's tenure, a commissioner
5 shall not:

6 (1) seek or hold an office in a political
7 party;

8 (2) seek or hold an elective public office or
9 an appointed public position, except for a commissioner
10 appointed by the chief justice of the supreme court in
11 continuing to hold the office of district court judge; or

12 (3) be a state employee, government contractor
13 or lobbyist.

14 D. A commissioner who violates Subsection C of this
15 section is deemed to have resigned from the commission.

16 E. For a period of one calendar year following a
17 commissioner's tenure or following the resignation or removal
18 of a commissioner, the commissioner shall not:

19 (1) seek or hold an elective public office, an
20 appointed public position or public employment, except for a
21 commissioner appointed by the chief justice of the supreme
22 court in continuing to hold the office of district court judge;

23 (2) represent a respondent, unless appearing
24 on the commissioner's own behalf; or

25 (3) accept employment or otherwise provide

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1 services to a respondent unless the commissioner accepted
2 employment or provided services prior to the filing of a
3 complaint against the respondent.

4 SECTION 5. [NEW MATERIAL] COMMISSION--DUTIES AND
5 POWERS.--

6 A. The commission shall:

7 (1) receive and investigate complaints
8 alleging ethics violations against public officers, public
9 employees, candidates for elected office, government
10 contractors and lobbyists;

11 (2) hold hearings in appropriate cases to
12 determine whether there has been an ethics violation;

13 (3) beginning on January 1, 2017, administer
14 the provisions of the following acts:

- 15 (a) the Campaign Reporting Act;
- 16 (b) the Voter Action Act;
- 17 (c) the Lobbyist Regulation Act;
- 18 (d) the Governmental Conduct Act;
- 19 (e) the Financial Disclosure Act; and
- 20 (f) the Gift Act;

21 (4) develop, adopt and promulgate the rules
22 necessary to implement and administer the provisions of the
23 State Ethics Commission Act;

24 (5) compile, index, maintain and provide
25 public access to all advisory opinions and reports required to

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1 be made public pursuant to the State Ethics Commission Act;

2 (6) draft a proposed code of ethics for state
3 officials and state employees and submit the proposed code to
4 each elected state official and state agency for adoption;

5 (7) compile, adopt, publish and make available
6 to all public officers, public employees, candidates for
7 elected office, government contractors and lobbyists an ethics
8 guide that clearly and plainly explains the ethics requirements
9 set forth in state law, including those that relate to
10 conducting business with the state;

11 (8) offer annual ethics training to public
12 officers, public employees, candidates for elected office,
13 government contractors, lobbyists and other interested persons;

14 (9) employ an executive director, who shall be
15 an attorney; and

16 (10) submit an annual report of its
17 activities, including any recommendations regarding state
18 ethics laws or the scope of its powers and duties, in December
19 of each year to the legislature and the governor.

20 B. The commission may:

21 (1) initiate complaints alleging ethics
22 violations against public officers, public employees,
23 candidates for elected office, government contractors and
24 lobbyists;

25 (2) issue subpoenas requiring the attendance

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1 of witnesses or the production of books, records, documents or
2 other evidence relevant to an investigation; and

3 (3) issue advisory opinions to public
4 officers, public employees, candidates for elected office,
5 government contractors and lobbyists in accordance with the
6 provisions of the State Ethics Commission Act.

7 SECTION 6. [NEW MATERIAL] EXECUTIVE DIRECTOR--
8 APPOINTMENT--DUTIES AND POWERS.--

9 A. The commission shall appoint an executive
10 director who shall be knowledgeable about state ethics laws and
11 who shall be appointed without reference to party affiliation
12 and solely on the grounds of fitness to perform the duties of
13 the office. The director shall hold office from the date of
14 appointment until such time as the director is removed by the
15 commission.

16 B. The director shall:

17 (1) take the oath of office required by
18 Article 20, Section 1 of the constitution of New Mexico;

19 (2) perform investigations on behalf of the
20 commission;

21 (3) bring complaints and investigation results
22 before the commission for consideration;

23 (4) prepare an annual budget for the
24 commission and submit it to the commission for approval;

25 (5) make recommendations to the commission of

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1 proposed rules or legislative changes needed to provide better
2 administration of the State Ethics Commission Act; and

3 (6) perform other duties as assigned by the
4 commission.

5 C. The director may:

6 (1) hire a general counsel for the commission
7 and additional personnel as may be necessary to carry out the
8 duties of the commission;

9 (2) enter into contracts and agreements on
10 behalf of the commission; and

11 (3) administer oaths and take depositions
12 subject to the Rules of Civil Procedure for the District
13 Courts.

14 D. For a period of one calendar year immediately
15 following the director's employment with the commission, the
16 director shall not:

17 (1) seek or hold an elective public office, an
18 appointed public position or public employment;

19 (2) represent a respondent, unless appearing
20 on the director's own behalf; or

21 (3) accept employment or otherwise provide
22 services to a respondent, unless the director accepted
23 employment or provided services prior to the filing of a
24 complaint against the respondent.

25 SECTION 7. [NEW MATERIAL] RECUSAL--DISQUALIFICATION.--

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1 A. A commissioner shall recuse from and not
2 participate in a commission proceeding in which the
3 commissioner has a conflict of interest. The commissioner
4 shall state the reason for the recusal.

5 B. If the propriety of a commissioner's
6 participation in a particular matter is questioned on the
7 grounds that the commissioner has a conflict of interest, the
8 commission may disqualify that commissioner from participation
9 in a commission proceeding.

10 C. A recused or disqualified commissioner shall not
11 participate in any proceeding related to the matter from which
12 the commissioner is recused or disqualified, and the
13 commissioner shall be excused from that portion of a meeting at
14 which the matter is discussed.

15 D. If four or more commissioners have recused
16 themselves or are disqualified from participating in a
17 proceeding, the remaining commissioners shall appoint temporary
18 commissioners to participate in that proceeding. Appointments
19 of temporary commissioners shall be made by a majority vote of
20 the remaining commissioners in accordance with the political
21 party affiliation and geographical representation requirements
22 and the qualifications of Sections 3 and 4 of the State Ethics
23 Commission Act.

24 E. The commission shall promulgate rules for the
25 recusal and disqualification of members and for the appointment

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1 of temporary commissioners.

2 SECTION 8. [NEW MATERIAL] ADVISORY OPINIONS.--

3 A. The commission may issue advisory opinions on
4 matters related to ethics. Advisory opinions shall:

5 (1) be requested in writing by a public
6 officer, public employee, candidate for elected office,
7 government contractor or lobbyist;

8 (2) identify a specific set of circumstances
9 involving an ethics issue;

10 (3) be issued within sixty days of receipt of
11 the request unless the commission notifies the requester of a
12 delay in issuance and continues to notify the requester every
13 thirty days until the advisory opinion is issued; and

14 (4) be published after omitting the
15 requester's name and identifying information.

16 B. A request for an advisory opinion is
17 confidential and not subject to the provisions of the
18 Inspection of Public Records Act.

19 C. Unless amended or revoked, an advisory opinion
20 shall be binding on the commission in any subsequent commission
21 proceedings concerning a person who acted in good faith and in
22 reasonable reliance on the advisory opinion.

23 SECTION 9. [NEW MATERIAL] COMPLAINTS--INVESTIGATIONS--
24 SUBPOENAS.--

25 A. A complaint of an alleged ethics violation

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1 committed by a public officer, public employee, candidate for
2 elected office, government contractor or lobbyist may be:

3 (1) filed with the commission by a person who
4 has actual knowledge of the alleged ethics violation; or

5 (2) initiated by the commission upon receipt
6 of evidence deemed sufficient by the commission.

7 B. The complainant shall set forth in detail the
8 specific charges against the public officer, public employee,
9 candidate for elected office, government contractor or lobbyist
10 and the factual allegations that support the charges and shall
11 sign the complaint under penalty of false statement. The
12 complainant shall submit any evidence the complainant has that
13 supports the complaint. Evidence may include documents,
14 records and names of witnesses. The commission shall prescribe
15 the forms on which complaints are to be filed.

16 C. The chair of the commission shall sign a
17 complaint initiated by the commission, and the complaint shall
18 set forth in detail the specific charges against the public
19 officer, public employee, candidate for elected office,
20 government contractor or lobbyist and the factual allegations
21 that support the charges.

22 D. The director shall bring all complaints before
23 the commission and make recommendations to the commission as to
24 whether the conduct alleged in a complaint is within the
25 jurisdiction of the commission and warrants investigation.

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1 E. The commission shall dismiss complaints that are
2 frivolous, unfounded or outside the jurisdiction of the
3 commission. If the commission dismisses a complaint pursuant
4 to this subsection, the director shall promptly notify the
5 complainant.

6 F. If the commission determines that there is
7 sufficient cause to proceed with an investigation, the director
8 shall investigate the complaint. The director shall promptly
9 notify the respondent that a complaint has been filed and is
10 being investigated and shall notify the respondent of the
11 specific allegations in the complaint and the specific ethics
12 violations implicated by the complaint.

13 G. As part of an investigation, the director may
14 administer oaths, interview witnesses and examine books,
15 records, documents and other evidence reasonably related to the
16 complaint. All testimony in an investigation shall be under
17 oath, and the respondent shall have the right to be represented
18 by legal counsel. If the director determines that a subpoena
19 is necessary to obtain the testimony of any person or the
20 production of books, records, documents or other evidence, the
21 director shall request that the commission issue an appropriate
22 subpoena.

23 H. The commission may issue subpoenas for the
24 attendance and examination of witnesses or for the production
25 of books, records, documents, things or other evidence

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1 reasonably related to an investigation. A subpoena shall be
2 signed by the chair of the commission and shall command the
3 person to whom it is directed to attend and give testimony or
4 to produce and permit the inspection of books, documents,
5 records, things or other evidence. A subpoena shall state the
6 general nature of the investigation and shall describe with
7 reasonable specificity the nature of the information to be
8 produced, the time and place where the information shall be
9 produced and the consequences of failure to obey the subpoena.
10 After service of a subpoena, if a person neglects or refuses to
11 comply with the subpoena, the commission may apply to a
12 district court for an order enforcing the subpoena and
13 compelling compliance.

14 I. A state official or state employee who is a
15 respondent shall be entitled to representation by the risk
16 management division of the general services department;
17 provided, however, that if the respondent is found to have
18 committed an ethics violation, the respondent shall reimburse
19 the division for the respondent's equitable share of reasonable
20 attorney fees and costs. If the respondent was represented by
21 an attorney employee of the risk management division, the
22 division shall be reimbursed at the full cost incurred by the
23 division, including benefits and taxes, for employing the
24 attorney for the hours the attorney provided on the case.

25 SECTION 10. [NEW MATERIAL] STATUS OF INVESTIGATION--TIME

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1 LIMITATIONS.--

2 A. If the commission has not scheduled a hearing
3 concerning the disposition of a complaint within ninety days
4 after the complaint is received or initiated by the commission,
5 the director shall, as soon as practicable, report to the
6 commission on the progress and status of the investigation.
7 The commission may dismiss the complaint or instruct the
8 director to continue investigating the complaint. Unless the
9 commission dismisses the complaint, the director shall report
10 to the commission every ninety days thereafter on the progress
11 and status of the investigation.

12 B. Upon dismissal or a decision to continue an
13 investigation of a complaint, the commission shall notify the
14 respondent in writing of its action. The commission shall also
15 notify the complainant of the dismissal of a complaint. The
16 commission shall not publicly disclose its action or
17 notification except upon the request of the respondent.

18 SECTION 11. [NEW MATERIAL] REPORT--HEARING--FINDINGS AND
19 CONCLUSIONS--DISCLOSURE OF ETHICS VIOLATION.--

20 A. The director shall provide a written report of
21 the investigation to the commission and to the respondent. The
22 director shall provide the respondent with reasonable written
23 notice of the date, time and place of the commission hearing.

24 B. At the hearing, the commission has the power to
25 administer oaths. One of the commissioners appointed by the

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1 chief justice of the supreme court shall preside over the
2 hearing. The respondent has the right to be represented by
3 counsel and to present evidence and testimony and examine and
4 cross-examine witnesses.

5 C. After the hearing, if the commission finds by
6 clear and convincing evidence that the respondent's conduct
7 constituted an ethics violation, the commission shall issue a
8 written report that shall include findings of fact and
9 conclusions of law. If the respondent is a state official or
10 state employee, the written report may include a public
11 reprimand or censure regarding the respondent's behavior or
12 recommendations for disciplinary action against the respondent.

13 D. The commission shall publicly disclose a report
14 issued pursuant to Subsection C of this section and provide it,
15 along with all evidence collected during its investigation, to
16 the respondent, the attorney general and the:

17 (1) appropriate legislative body if the
18 respondent is a member of the legislature;

19 (2) house of representatives if the respondent
20 is a state official elected to an office of the executive
21 branch;

22 (3) respondent's appointing authority if the
23 respondent is an appointed state official;

24 (4) appropriate state agency if the respondent
25 is a state employee;

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1 (5) appropriate district attorney if the
2 respondent is an elected officer or employee of a political
3 subdivision of the state;

4 (6) state agency with which the respondent has
5 a government contract if the respondent is a government
6 contractor; or

7 (7) respondent's employer and clients if the
8 respondent is a lobbyist.

9 E. If, after the hearing, the commission does not
10 find by clear and convincing evidence that the respondent's
11 conduct constituted an ethics violation, the commission shall
12 dismiss the complaint and provide notice of the dismissal to
13 the respondent and complainant no later than five days after
14 the finding is made. A notice issued pursuant to this
15 subsection shall not be public except upon the request of the
16 respondent.

17 F. Notwithstanding the provisions of the Open
18 Meetings Act, commission hearings held pursuant to this section
19 are closed to the public. The commission shall promulgate
20 rules establishing procedures for hearings.

21 SECTION 12. [NEW MATERIAL] CONFIDENTIALITY OF RECORDS.--
22 All complaints, reports, files, records and communications
23 collected or generated by the commission or its director that
24 pertain to alleged ethics violations shall not be disclosed by
25 the commission or any member, agent or employee of the

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1 commission, and are not subject to the Inspection of Public
2 Records Act, unless:

3 A. disclosure is necessary to pursue an
4 investigation;

5 B. disclosure is required pursuant to the
6 provisions of the State Ethics Commission Act;

7 C. they are offered into evidence at a judicial,
8 legislative or administrative proceeding;

9 D. disclosure is required by law or ordered by a
10 court; or

11 E. the respondent files with the commission a
12 written waiver of confidentiality.

13 SECTION 13. [NEW MATERIAL] CRIMINAL VIOLATIONS--
14 REFERRAL.--If the commission finds at any time that the
15 respondent's conduct may amount to a criminal violation, the
16 commission shall immediately refer the matter to the attorney
17 general or an appropriate district attorney. The commission
18 shall provide the attorney general or district attorney with
19 all evidence collected during its investigation that may be
20 used in a criminal proceeding. Nothing in this section
21 prevents the commission from taking any action otherwise
22 authorized by the State Ethics Commission Act or deciding to
23 hold a matter in abeyance pending resolution of any criminal
24 charges.

25 SECTION 14. [NEW MATERIAL] LIMITATIONS ON JURISDICTION.--

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1 A. The commission shall not accept or consider a
2 complaint unless the complaint is filed or initiated within
3 three years from the date on which the alleged conduct
4 occurred.

5 B. The commission shall dismiss complaints that are
6 frivolous, unfounded or outside the jurisdiction of the
7 commission. A complainant shall be notified of this provision
8 and shall be notified that the complainant may refer any
9 allegations of criminal conduct to the attorney general or
10 appropriate district attorney. The respondent shall be
11 notified that a complaint has been filed and of the specific
12 allegations in the complaint.

13 C. The commission shall not investigate allegations
14 of misconduct involving campaign advertisements.

15 SECTION 15. [NEW MATERIAL] PROHIBITED ACTIONS.--

16 A. A person shall not take or threaten to take any
17 retaliatory, disciplinary or other adverse action against
18 another person who in good faith:

19 (1) files a complaint with the commission
20 alleging an ethics violation against a public officer, public
21 employee, candidate for elected office, government contractor
22 or lobbyist; or

23 (2) provides testimony, records, documents or
24 other information to the commission during an investigation or
25 at a hearing conducted pursuant to the State Ethics Commission

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1 Act.

2 B. Nothing in the State Ethics Commission Act
3 precludes civil action for malicious abuse of process.

4 C. All pleadings and papers filed with the
5 commission and all evidence submitted to the commission in a
6 proceeding under the State Ethics Commission Act are absolutely
7 privileged in an action for defamation.

8 SECTION 16. [NEW MATERIAL] CONFIDENTIALITY--PENALTY.--
9 Disclosure of any confidential complaint, report, file, record
10 or communication in violation of the State Ethics Commission
11 Act is a misdemeanor and shall be punished by a fine of not
12 more than one thousand dollars (\$1,000) or by imprisonment for
13 not more than one year or both.

14 SECTION 17. Section 1-19-26 NMSA 1978 (being Laws 1979,
15 Chapter 360, Section 2, as amended by Laws 2009, Chapter 67,
16 Section 1 and by Laws 2009, Chapter 68, Section 2) is amended
17 to read:

18 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
19 Act:

20 A. "advertising campaign" means an advertisement or
21 series of advertisements used for a political purpose and
22 disseminated to the public either in print, by radio or
23 television broadcast or by any other electronic means,
24 including telephonic communications, and may include direct or
25 bulk mailings of printed materials;

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1 B. "anonymous contribution" means a contribution
2 the contributor of which is unknown to the candidate or the
3 candidate's agent or the political committee or its agent who
4 accepts the contribution;

5 C. "bank account" means an account in a financial
6 institution located in New Mexico;

7 D. "campaign committee" means two or more persons
8 authorized by a candidate to raise, collect or expend
9 contributions on the candidate's behalf for the purpose of
10 electing the candidate to office;

11 E. "candidate" means an individual who seeks or
12 considers an office in an election covered by the Campaign
13 Reporting Act, including a public official, who either has
14 filed a declaration of candidacy or nominating petition or:

15 (1) for a nonstatewide office, has received
16 contributions or made expenditures of one thousand dollars
17 (\$1,000) or more or authorized another person or campaign
18 committee to receive contributions or make expenditures of one
19 thousand dollars (\$1,000) or more for the purpose of seeking
20 election to the office; or

21 (2) for a statewide office, has received
22 contributions or made expenditures of two thousand five hundred
23 dollars (\$2,500) or more or authorized another person or
24 campaign committee to receive contributions or make
25 expenditures of two thousand five hundred dollars (\$2,500) or

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1 more for the purpose of seeking election to the office or for
2 candidacy exploration purposes in the years prior to the year
3 of the election;

4 F. "contribution" means a gift, subscription, loan,
5 advance or deposit of money or other thing of value, including
6 the estimated value of an in-kind contribution, that is made or
7 received for a political purpose, including payment of a debt
8 incurred in an election campaign, but "contribution" does not
9 include the value of services provided without compensation or
10 unreimbursed travel or other personal expenses of individuals
11 who volunteer a portion or all of their time on behalf of a
12 candidate or political committee, nor does it include the
13 administrative or solicitation expenses of a political
14 committee that are paid by an organization that sponsors the
15 committee;

16 G. "deliver" or "delivery" means to deliver by
17 certified or registered mail, telecopier, electronic
18 transmission or facsimile or by personal service;

19 H. "election" means any primary, general or
20 statewide special election in New Mexico and includes county
21 and judicial retention elections but excludes municipal, school
22 board and special district elections;

23 I. "election year" means an even-numbered year in
24 which an election covered by the Campaign Reporting Act is
25 held;

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1 J. "expenditure" means a payment, transfer or
2 distribution or obligation or promise to pay, transfer or
3 distribute any money or other thing of value for a political
4 purpose, including payment of a debt incurred in an election
5 campaign or pre-primary convention, but does not include the
6 administrative or solicitation expenses of a political
7 committee that are paid by an organization that sponsors the
8 committee;

9 K. "person" means an individual or entity;

10 L. "political committee" means two or more persons,
11 other than members of a candidate's immediate family or
12 campaign committee or a husband and wife who make a
13 contribution out of a joint account, who are selected,
14 appointed, chosen, associated, organized or operated primarily
15 for a political purpose; and "political committee" includes:

16 (1) political parties, political action
17 committees or similar organizations composed of employees or
18 members of any corporation, labor organization, trade or
19 professional association or any other similar group that
20 raises, collects, expends or contributes money or any other
21 thing of value for a political purpose;

22 (2) a single individual whose actions
23 represent that the individual is a political committee; and

24 (3) a person or an organization of two or more
25 persons that within one calendar year expends funds in excess

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1 of five hundred dollars (\$500) to conduct an advertising
2 campaign for a political purpose;

3 M. "political purpose" means influencing or
4 attempting to influence an election or pre-primary convention,
5 including a constitutional amendment or other question
6 submitted to the voters;

7 N. "prescribed form" means a form or electronic
8 format prepared and prescribed by the [~~secretary of~~] state
9 ethics commission;

10 O. "proper filing officer" means [~~either the~~
11 ~~secretary of state or the county clerk~~] the state ethics
12 commission as provided in Section 1-19-27 NMSA 1978;

13 P. "public official" means a person elected to an
14 office in an election covered by the Campaign Reporting Act or
15 a person appointed to an office that is subject to an election
16 covered by that act; and

17 Q. "reporting individual" means every public
18 official, candidate or treasurer of a campaign committee and
19 every treasurer of a political committee."

20 SECTION 18. Section 1-19-26.1 NMSA 1978 (being Laws 1993,
21 Chapter 46, Section 2, as amended) is amended to read:

22 "1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--
23 DISCLOSURES.--

24 A. It is unlawful for [~~any~~] a political committee
25 that receives, contributes or expends in excess of five hundred

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1 dollars (\$500) in any calendar year to continue to receive or
2 make ~~[any]~~ a contribution or expenditure for a political
3 purpose unless that political committee appoints and maintains
4 a treasurer and registers with the ~~[secretary of]~~ state ethics
5 commission.

6 B. A political committee shall register with the
7 ~~[secretary of]~~ state ethics commission within ten days of
8 receiving, contributing or expending in excess of five hundred
9 dollars (\$500) by paying a filing fee of fifty dollars (\$50.00)
10 and filing a statement of organization under oath on a
11 prescribed form showing:

12 (1) the full name of the political committee,
13 which shall fairly and accurately reflect the identity of the
14 committee, including any sponsoring organization, and its
15 address;

16 (2) a statement of the purpose for which the
17 political committee was organized;

18 (3) the name, address and relationship of any
19 connected or associated organization or entity;

20 (4) the names and addresses of the officers of
21 the committee; and

22 (5) an identification of the bank used by the
23 committee for all expenditures or contributions made or
24 received.

25 C. The provisions of this section do not apply to a

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1 political committee that is located in another state and is
2 registered with the federal election commission if the
3 political committee reports on federal reporting forms filed
4 with the federal election commission all expenditures for and
5 contributions made to reporting individuals in New Mexico and
6 files with the [~~secretary of~~] state ethics commission,
7 according to the schedule required for the filing of forms with
8 the federal election commission, a copy of either the full
9 report or the cover sheet and the portions of the federal
10 reporting forms that contain the information on expenditures
11 for and contributions made to reporting individuals in New
12 Mexico."

13 SECTION 19. Section 1-19-26.2 NMSA 1978 (being Laws 1997,
14 Chapter 112, Section 1) is amended to read:

15 "1-19-26.2. RULES [~~AND REGULATIONS~~].--The [~~secretary of~~]
16 state ethics commission may adopt and promulgate rules [~~and~~
17 ~~regulations~~] to implement the provisions of the Campaign
18 Reporting Act. In adopting and promulgating these rules [~~and~~
19 ~~regulations~~], the [~~secretary of state~~] commission shall comply
20 with the provisions of the Administrative Procedures Act. In
21 addition to any other notification required pursuant to the
22 provisions of Paragraph (2) of Subsection A of Section 12-8-4
23 NMSA 1978, the [~~secretary of state~~] commission shall notify all
24 qualified political parties in the state and the New Mexico
25 legislative council prior to adopting, amending or repealing

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1 any rule [~~or regulation~~] implementing the Campaign Reporting
2 Act."

3 SECTION 20. Section 1-19-27 NMSA 1978 (being Laws 1979,
4 Chapter 360, Section 3, as amended) is amended to read:

5 "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER.--

6 A. Except for those candidates and public
7 [~~officials~~] officials who file a statement of no activity, all
8 reporting individuals shall file with the proper filing officer
9 a report of expenditures and contributions on a prescribed
10 form.

11 B. The proper filing officer for filing reports of
12 expenditures and contributions by a political committee is the
13 [~~secretary of~~] state ethics commission.

14 C. The proper filing officer for filing reports of
15 expenditures and contributions or statements of no activity is
16 the [~~secretary of~~] state ethics commission for all candidates
17 and public officials.

18 D. The [~~secretary of~~] state ethics commission shall
19 develop or contract for services to develop an electronic
20 reporting system for receiving and for public inspection of
21 reports of expenditures and contributions and statements of no
22 activity to the Campaign Reporting Act. The electronic
23 reporting system shall:

24 (1) enable a person to file reports online by
25 filling out forms on the [~~secretary of state's~~] commission's

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1 ~~[web site]~~ website; and

2 (2) provide for encrypted transmissions."

3 SECTION 21. Section 1-19-28 NMSA 1978 (being Laws 1979,
4 Chapter 360, Section 4, as amended) is amended to read:

5 "1-19-28. FURNISHING REPORT FORMS--POLITICAL COMMITTEES--
6 CANDIDATES.--

7 A. The ~~[secretary of]~~ state ethics commission
8 annually shall furnish to all reporting individuals the
9 prescribed forms for the reporting of expenditures and
10 contributions, supplemental reports and a statement of no
11 activity and the specific dates the reports and statement are
12 due.

13 B. In addition to the provisions of Subsection A of
14 this section, at the time of filing a declaration of candidacy
15 or a nominating petition, the ~~[proper filing officer]~~ secretary
16 of state or county clerk shall give the candidate the
17 prescribed reporting forms and the schedule of specific dates
18 for filing the required reports or a statement of no activity.
19 The prescribed forms shall also be made available to all
20 reporting individuals at the office of the secretary of state,
21 the state ethics commission and in each county at the office of
22 the county clerk."

23 SECTION 22. Section 1-19-29 NMSA 1978 (being Laws 1993,
24 Chapter 46, Section 5, as amended) is amended to read:

25 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

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1 A. Except as otherwise provided in this section,
2 all reporting individuals shall file with the proper filing
3 officer by 5:00 p.m. on the second Monday in April and October
4 a report of all expenditures made and contributions received on
5 or before the first Monday in those months and not previously
6 reported. The report shall be filed biannually until the
7 reporting individual's bank account has been closed and the
8 other provisions specified in Subsection F of this section have
9 been satisfied.

10 B. In an election year, instead of the biannual
11 reports provided for in Subsection A of this section, all
12 reporting individuals, except for public officials who are not
13 candidates in an election that year, shall file reports of all
14 expenditures made and contributions received or, if applicable,
15 statements of no activity, according to the following schedule:

16 (1) by 5:00 p.m. on the second Monday in
17 April, a report of all expenditures made and contributions
18 received on or before the first Monday in April and not
19 previously reported;

20 (2) by 5:00 p.m. on the second Monday in May,
21 a report of all expenditures made and contributions received on
22 or before the first Monday in May and not previously reported;

23 (3) by 5:00 p.m. on the second Monday in
24 September, a report of all expenditures made and contributions
25 received on or before the first Monday in September and not

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1 previously reported;

2 (4) by 5:00 p.m. on the second Monday in
3 October, a report of all expenditures made and contributions
4 received on or before the first Monday in October and not
5 previously reported;

6 (5) by 5:00 p.m. on the Thursday before a
7 primary, general or statewide special election, a report of all
8 expenditures made and contributions received by 5:00 p.m. on
9 the Tuesday before the election. Any contribution or pledge to
10 contribute that is received after 5:00 p.m. on the Tuesday
11 before the election and that is for five hundred dollars (\$500)
12 or more in a legislative or nonstatewide judicial election, or
13 two thousand five hundred dollars (\$2,500) or more in a
14 statewide election, shall be reported to the proper filing
15 officer either in a supplemental report on a prescribed form
16 within twenty-four hours of receipt or in the report to be
17 filed by 5:00 p.m. on the Thursday before a primary, general or
18 statewide special election, except that any such contribution
19 or pledge to contribute that is received after 5:00 p.m. on the
20 Friday before the election may be reported by 12:00 noon on the
21 Monday before the election; and

22 (6) by 5:00 p.m. on the thirtieth day after a
23 primary, general or statewide special election, a report of all
24 expenditures made and contributions received on or before the
25 twenty-fifth day after the election and not previously

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1 reported.

2 C. If a candidate or public official has not
3 received any contributions and has not made any expenditures
4 since the candidate's or official's last report was filed with
5 the proper filing officer, the candidate or official shall only
6 be required to file a statement of no activity, which shall not
7 be required to be notarized, in lieu of a full report when that
8 report would otherwise be due and shall not be required to file
9 a full report until the next required filing date occurring
10 after an expenditure is made or a contribution is received.

11 D. In an election year, a public official who is
12 not a candidate shall file biannual reports of expenditures
13 made and contributions received or statements of no activity in
14 accordance with the schedule provided for in Subsection A of
15 this section.

16 E. A report of expenditures and contributions filed
17 after a deadline set forth in this section shall not be deemed
18 to have been timely filed.

19 F. Except for candidates and public officials who
20 file a statement of no activity, each reporting individual
21 shall file a report of expenditures and contributions pursuant
22 to the filing schedules set forth in this section, regardless
23 of whether any expenditures were made or contributions were
24 received during the reporting period. Reports shall be
25 required until the reporting individual delivers a report to

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1 the proper filing officer stating that:

- 2 (1) there are no outstanding campaign debts;
3 (2) all money has been expended in accordance
4 with the provisions of Section 1-19-29.1 NMSA 1978; and
5 (3) the bank account has been closed.

6 G. Each treasurer of a political committee shall
7 file a report of expenditures and contributions pursuant to the
8 filing schedules set forth in this section until the treasurer
9 files a report that affirms that the committee has dissolved or
10 no longer exists and that its bank account has been closed.

11 H. A reporting individual who is a candidate within
12 the meaning of the Campaign Reporting Act because of the amount
13 of contributions the candidate receives or expenditures the
14 candidate makes and who does not ultimately file a declaration
15 of candidacy or a nominating petition with the proper filing
16 officer and does not file a statement of no activity shall file
17 biannual reports in accordance with Subsection A of this
18 section.

19 I. Reports required by this section shall be
20 subscribed and sworn to by the candidate or the treasurer of
21 the political committee. A report filed electronically shall
22 be electronically authenticated by the candidate or the
23 treasurer of the political committee using an electronic
24 signature in conformance with the Electronic Authentication of
25 Documents Act and the Uniform Electronic Transactions Act. For

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1 the purposes of the Campaign Reporting Act, a report that is
2 electronically authenticated in accordance with the provisions
3 of this subsection shall be deemed to have been subscribed and
4 sworn to by the candidate or the treasurer of the political
5 committee who was required to file the report.

6 J. Reports required by this section shall be filed
7 electronically by all reporting individuals.

8 K. Reporting individuals may apply to the
9 [~~secretary of~~] state ethics commission for exemption from
10 electronic filing in case of hardship, which shall be defined
11 by the [~~secretary of state~~] commission."

12 SECTION 23. Section 1-19-31 NMSA 1978 (being Laws 1979,
13 Chapter 360, Section 7, as amended) is amended to read:

14 "1-19-31. CONTENTS OF REPORT.--

15 A. Each required report of expenditures and
16 contributions shall be typed or printed legibly, or on a
17 computer disc or format approved by the [~~secretary of~~] state
18 ethics commission, and shall include:

19 (1) the name and address of the person or
20 entity to whom an expenditure was made or from whom a
21 contribution was received, except as provided for anonymous
22 contributions or contributions received from special events as
23 provided in Section 1-19-34 NMSA 1978; provided that for
24 contributors, the name of the entity or the first and last
25 names of any individual shall be the full name of the entity or

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1 individual, and initials only shall not constitute a full name
2 unless that is the complete legal name;

3 (2) the occupation or type of business of any
4 person or entity making contributions of two hundred fifty
5 dollars (\$250) or more in the aggregate per election;

6 (3) the amount of the expenditure or
7 contribution or value thereof;

8 (4) the purpose of the expenditure; and

9 (5) the date the expenditure was made or the
10 contribution was received.

11 B. Each report shall contain an opening and
12 closing cash balance for the bank account maintained by the
13 reporting individual during the reporting period and the name
14 of the financial institution.

15 C. Each report shall specify the amount of each
16 unpaid debt and the identity of the person to whom the debt is
17 owed."

18 SECTION 24. Section 1-19-32 NMSA 1978 (being Laws 1979,
19 Chapter 360, Section 8, as amended) is amended to read:

20 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

21 A. Each of the following documents is a public
22 record open to public inspection during regular office hours in
23 the office in which the document was filed or from which the
24 document was issued:

25 (1) a statement of [~~exception~~] no activity;

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- 1 (2) a report of expenditures and
- 2 contributions;
- 3 (3) an advisory opinion issued by the
- 4 [~~secretary of~~] state ethics commission;
- 5 (4) a document specified as a public record in
- 6 the Campaign Reporting Act; and
- 7 (5) an arbitration decision issued by an
- 8 arbitration panel and filed with the [~~secretary of~~] state
- 9 ethics commission.

10 B. Each public record described in Subsection A of
11 this section shall be retained by the state for five years and
12 may be destroyed five years after the date of filing unless a
13 legal action or prosecution is pending that requires the
14 preservation of the public record.

15 C. The [~~secretary of~~] state ethics commission shall
16 provide for electronic access to reports of expenditures and
17 contributions and statements of [~~exception~~] no activity
18 submitted electronically by reporting individuals. Electronic
19 access shall include access via the internet and shall be in an
20 easily searchable format."

21 SECTION 25. Section 1-19-32.1 NMSA 1978 (being Laws 1981,
22 Chapter 331, Section 9, as amended) is amended to read:

23 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF
24 REPORTS.--

25 A. The [~~secretary of~~] state ethics commission shall

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1 conduct a thorough examination of at least ten percent of all
2 reports filed during a year by reporting individuals, selected
3 at random at least forty days after the general election and
4 ten days after the April reports are filed in a non-election
5 year, to determine compliance with the provisions of the
6 Campaign Reporting Act. The examination may include an
7 investigation of any discrepancies, including a cross-reference
8 to reports filed by any other reporting individual. A
9 reporting individual shall be notified in writing if a
10 discrepancy is found in the report filed and shall be permitted
11 to file a written explanation for the discrepancy within ten
12 working days of the date of the notice. The notice, penalty
13 and arbitration provisions set forth in Section 1-19-34.4 NMSA
14 1978 shall apply to examinations conducted under this section.

15 B. After the date stated in the notice of final
16 action for submission of a written explanation, the [~~secretary~~
17 ~~of~~] state ethics commission shall prepare an annual report of
18 any unresolved discrepancies found after examination of the
19 random sample provided for in Subsection A of this section. A
20 copy of this report shall be transmitted to the attorney
21 general for enforcement pursuant to the provisions of Section
22 1-19-36 NMSA 1978. This report is a public record open to
23 public inspection and subject to the retention and destruction
24 provisions set forth in Section 1-19-32 NMSA 1978."

25 SECTION 26. Section 1-19-34.4 NMSA 1978 (being Laws 1993,

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1 Chapter 46, Section 15, as amended) is amended to read:

2 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--
3 INVESTIGATIONS--BINDING ARBITRATION--REFERRALS FOR
4 ENFORCEMENT.--

5 A. The [~~secretary of~~] state ethics commission shall
6 advise and seek to educate all persons required to perform
7 duties under the Campaign Reporting Act of those duties. This
8 includes advising all known reporting individuals at least
9 annually of that act's deadlines for submitting required
10 reports and statements of [~~exception~~] no activity. The
11 [~~secretary of state~~] commission, in consultation with the
12 attorney general, shall issue advisory opinions, when requested
13 in writing to do so, on matters concerning that act. All
14 prescribed forms prepared shall be clear and easy to complete.

15 B. The [~~secretary of~~] state ethics commission may
16 initiate investigations to determine whether any provision of
17 the Campaign Reporting Act has been violated. Additionally,
18 any person who believes that a provision of that act has been
19 violated may file a written complaint with the [~~secretary of~~
20 ~~state~~] commission any time prior to ninety days after an
21 election, except that no complaints from the public may be
22 filed within eight days prior to an election. The [~~secretary~~
23 ~~of state~~] commission shall adopt procedures for issuing
24 advisory opinions and processing complaints and notifications
25 of violations.

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1 C. The [~~secretary of~~] state ethics commission shall
2 at all times seek to ensure voluntary compliance with the
3 provisions of the Campaign Reporting Act. If the [~~secretary of~~
4 ~~state~~] commission determines that a provision of that act for
5 which a penalty may be imposed has been violated, the
6 [~~secretary of state~~] commission shall by written notice set
7 forth the violation and the fine imposed and inform the
8 reporting individual that [~~he~~] the individual has ten working
9 days from the date of the letter to correct the matter and to
10 provide a written explanation, under penalty of perjury,
11 stating any reason why the violation occurred. If a timely
12 explanation is filed and the [~~secretary of state~~] commission
13 determines that good cause exists to waive the fine imposed,
14 the [~~secretary of state~~] commission may by a written notice of
15 final action partially or fully waive any fine imposed for any
16 late, incomplete or false report or statement of [~~exception~~] no
17 activity. A written notice of final action shall be sent by
18 certified mail.

19 D. Upon receipt of the notice of final action, the
20 person against whom the penalty has been imposed may protest
21 the [~~secretary of state's~~] state ethics commission's
22 determination, including an advisory opinion, by submitting on
23 a prescribed form a written request for binding arbitration to
24 the [~~secretary of state~~] commission within ten working days of
25 the date of the notice of final action. Any fine imposed shall

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1 be due and payable within ten working days of the date of
2 notice of final action. No additional fine shall accrue
3 pending the issuance of the arbitration decision. Fines paid
4 pursuant to a notice of final action that are subsequently
5 reduced or dismissed shall be reimbursed with interest within
6 ten working days after the filing of the arbitration decision
7 with the [~~secretary of state~~] commission. Interest on the
8 reduced or dismissed portion of the fine shall be the same as
9 the rate of interest earned by the [~~secretary of state's~~]
10 commission's escrow account to be established by the department
11 of finance and administration.

12 E. An arbitration hearing shall be conducted by a
13 single arbitrator selected within ten days by the person
14 against whom the penalty has been imposed from a list of five
15 arbitrators provided by the [~~secretary of~~] state [~~Neither the~~
16 ~~secretary of state nor~~] ethics commission. A person subject to
17 the Campaign Reporting Act, Lobbyist Regulation Act or
18 Financial Disclosure Act [~~may~~] shall not serve as an
19 arbitrator. Arbitrators shall be considered to be independent
20 contractors, not public officers or employees, and shall not be
21 paid per diem and mileage.

22 F. The arbitrator shall conduct the hearing within
23 thirty days of the request for arbitration. The arbitrator may
24 impose any penalty the [~~secretary of~~] state ethics commission
25 is authorized to impose. The arbitrator shall state the

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1 reasons for ~~[his]~~ the arbitrator's decision in a written
2 document that shall be a public record. The decision shall be
3 final and binding. The decision shall be issued and filed with
4 the ~~[secretary of state]~~ commission within thirty days of the
5 conclusion of the hearing. Unless otherwise provided for in
6 this section or by rule or regulation adopted by the ~~[secretary~~
7 ~~of state]~~ commission, the procedures for the arbitration shall
8 be governed by the Uniform Arbitration Act. No arbitrator
9 shall be subject to liability for actions taken pursuant to
10 this section.

11 G. The ~~[secretary of]~~ state ethics commission may
12 refer a matter to the attorney general or a district attorney
13 for a civil injunctive or other appropriate order or for
14 criminal enforcement."

15 SECTION 27. Section 1-19-34.6 NMSA 1978 (being Laws 1995,
16 Chapter 153, Section 19) is amended to read:

17 "1-19-34.6. CIVIL PENALTIES.--

18 A. If the ~~[secretary of]~~ state ethics commission
19 reasonably believes that a person committed, or is about to
20 commit, a violation of the Campaign Reporting Act, the
21 ~~[secretary of state]~~ commission shall refer the matter to the
22 attorney general or a district attorney for enforcement.

23 B. The attorney general or district attorney may
24 institute a civil action in district court for any violation of
25 the Campaign Reporting Act or to prevent a violation of that

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1 act that involves an unlawful solicitation or the making or
2 acceptance of an unlawful contribution. An action for relief
3 may include a permanent or temporary injunction, a restraining
4 order or any other appropriate order, including a civil penalty
5 of two hundred fifty dollars (\$250) for each violation not to
6 exceed five thousand dollars (\$5,000), and forfeiture of any
7 contribution received as a result of an unlawful solicitation
8 or unlawful contribution. Each unlawful solicitation and each
9 unlawful contribution made or accepted shall be deemed a
10 separate violation of the Campaign Reporting Act.

11 C. The attorney general or district attorney may
12 institute a civil action in district court if a violation has
13 occurred or to prevent a violation of any provision of the
14 Campaign Reporting Act other than that specified in Subsection
15 B of this section. Relief may include a permanent or temporary
16 injunction, a restraining order or any other appropriate order,
17 including an order for a civil penalty of fifty dollars
18 (\$50.00) for each violation not to exceed five thousand dollars
19 (\$5,000)."

20 SECTION 28. Section 1-19-34.7 NMSA 1978 (being Laws 2009,
21 Chapter 68, Section 1) is amended to read:

22 "1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES--
23 POLITICAL COMMITTEES.--

24 A. The following contributions by the following
25 persons are prohibited:

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1 (1) from a person, not including a political
2 committee, to a:

3 (a) candidate for nonstatewide office,
4 including the candidate's campaign committee, in an amount that
5 will cause that person's total contributions to the candidate
6 to exceed two thousand three hundred dollars (\$2,300) during
7 the primary election or two thousand three hundred dollars
8 (\$2,300) during the general election;

9 (b) candidate for statewide office,
10 including the candidate's campaign committee, in an amount that
11 will cause that person's total contributions to the candidate
12 to exceed five thousand dollars (\$5,000) during the primary
13 election or five thousand dollars (\$5,000) during the general
14 election; or

15 (c) political committee in an amount
16 that will cause that person's total contributions to the
17 political committee to exceed five thousand dollars (\$5,000)
18 during a primary election or five thousand dollars (\$5,000)
19 during a general election; and

20 (2) from a political committee to:

21 (a) a candidate for office, including
22 the candidate's campaign committee, in an amount that will
23 cause the political committee's total contributions to the
24 candidate to exceed five thousand dollars (\$5,000) during the
25 primary election or five thousand dollars (\$5,000) during the

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1 general election; or

2 (b) another political committee in an
3 amount that will cause that political committee's total
4 contributions to the political committee to exceed five
5 thousand dollars (\$5,000) during a primary election or five
6 thousand dollars (\$5,000) during a general election.

7 B. All contributions made by a person to a
8 candidate, either directly or indirectly, including
9 contributions that are in any way earmarked or otherwise
10 directed through another person to a candidate, shall be
11 treated as contributions from the person to that candidate.

12 C. A person, including a political committee, shall
13 not knowingly accept or solicit a contribution, directly or
14 indirectly, including a contribution earmarked or otherwise
15 directed or coordinated through another person, including a
16 political committee, that violates the contribution limits
17 provided for in this section.

18 D. On the day after each general election, the
19 contribution amounts provided in Subsection A of this section
20 shall be increased by the percentage of the preceding two
21 calendar [~~year's~~] years' increase of the consumer price index
22 for all urban consumers, United States city average for all
23 items, published by the United States department of labor. The
24 amount of the increase shall be rounded to the nearest multiple
25 of one hundred dollars (\$100). The [~~secretary of~~] state ethics

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1 commission shall publish by October 1 before each general
2 election the adjusted contribution limits that shall take
3 effect the day after the following general election.

4 E. All contributions in excess of the limits
5 imposed by the provisions of this section shall be deposited in
6 the public election fund upon a finding by the [~~secretary of~~
7 state ethics commission that the contribution limits have been
8 exceeded.

9 F. The limitation on contributions to a candidate
10 provided for in Subsection A of this section shall not apply to
11 a candidate's own contribution from the candidate's personal
12 funds to the candidate's own campaign.

13 G. For the purposes of this section:

14 (1) "primary election" means the period
15 beginning on the day after the general election for the
16 applicable office and ending on the day of the primary for that
17 office; and

18 (2) "general election" means the period
19 beginning on the day after the primary for the applicable
20 office and ending on the day of the general election for that
21 office."

22 SECTION 29. Section 1-19-35 NMSA 1978 (being Laws 1979,
23 Chapter 360, Section 11, as amended) is amended to read:

24 "1-19-35. REPORTS AND STATEMENTS--LATE FILING
25 PENALTY--FAILURE TO FILE.--

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1 A. Except for the report required to be filed and
2 delivered the Thursday prior to the election and any
3 supplemental report, as required in Paragraph (5) of Subsection
4 B of Section 1-19-29 NMSA 1978, that is due prior to the
5 election, and subject to the provisions of Section 1-19-34.4
6 NMSA 1978, if a statement of no activity or a report of
7 expenditures and contributions contains false or incomplete
8 information or is filed after any deadline imposed by the
9 Campaign Reporting Act, the responsible reporting individual or
10 political committee, in addition to any other penalties or
11 remedies prescribed by the Election Code, shall be liable for
12 and shall pay to the [~~secretary of~~] state ethics commission
13 fifty dollars (\$50.00) per day for each regular working day
14 after the time required by the Campaign Reporting Act for the
15 filing of statements of no activity or reports of expenditures
16 and contributions until the complete or true statement or
17 report is filed, up to a maximum of five thousand dollars
18 (\$5,000).

19 B. If any reporting individual files a false,
20 intentionally incomplete or late report of expenditures and
21 contributions due on the Thursday prior to the election, the
22 reporting individual or political committee shall be liable
23 and pay to the [~~secretary of~~] state ethics commission five
24 hundred dollars (\$500) for the first working day and fifty
25 dollars (\$50.00) for each subsequent working day after the time

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1 required for the filing of the report until the true and
2 complete report is filed, up to a maximum of five thousand
3 dollars (\$5,000).

4 C. If a reporting individual fails to file or files
5 a late supplemental report of expenditures and contributions as
6 required in Paragraph (5) of Subsection B of Section 1-19-29
7 NMSA 1978, the reporting individual or political committee
8 shall be liable for and pay to the [~~secretary of~~] state ethics
9 commission a penalty equal to the amount of each contribution
10 received or pledged after the Tuesday before the election that
11 was not timely filed.

12 D. All sums collected for the penalty shall be
13 deposited in the state general fund. A report or statement of
14 [~~exception~~] no activity shall be deemed timely filed only if it
15 is received by the proper filing officer by the date and time
16 prescribed by law.

17 E. Any candidate who fails or refuses to file a
18 report of expenditures and contributions or statement of no
19 activity or to pay a penalty imposed by the [~~secretary of~~]
20 state ethics commission as required by the Campaign Reporting
21 Act shall not, in addition to any other penalties provided by
22 law:

23 (1) have the candidate's name printed upon the
24 ballot if the violation occurs before and through the final
25 date for the withdrawal of candidates; or

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1 (2) be issued a certificate of nomination or
2 election, if the violation occurs after the final date for
3 withdrawal of candidates or after the election, until the
4 candidate satisfies all reporting requirements of the Campaign
5 Reporting Act and pays all penalties owed.

6 F. Any candidate who loses an election and who
7 failed or refused to file a report of expenditures and
8 contributions or a statement of no activity or to pay a penalty
9 imposed by the [~~secretary of~~] state ethics commission as
10 required by the Campaign Reporting Act shall not be, in
11 addition to any other penalties provided by law, permitted to
12 file a declaration of candidacy or nominating petition for any
13 future election until the candidate satisfies all reporting
14 requirements of that act and pays all penalties owed."

15 SECTION 30. Section 1-19A-1 NMSA 1978 (being Laws 2003,
16 Chapter 14, Section 1) is amended to read:

17 "1-19A-1. SHORT TITLE.--[~~Sections 1 through 17 of this~~
18 ~~act~~] Chapter 1, Article 19A NMSA 1978 may be cited as the
19 "Voter Action Act"."

20 SECTION 31. Section 1-19A-2 NMSA 1978 (being Laws 2003,
21 Chapter 14, Section 2, as amended) is amended to read:

22 "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

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

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

5 C. "commission" means the state ethics commission;

6 ~~[G-]~~ D. "contested election" means an election in
7 which there are more candidates for a position than the number
8 to be elected to that position;

9 ~~[D-]~~ E. "covered office" means any office of the
10 judicial department subject to statewide elections and the
11 office of public regulation commissioner;

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

20 ~~[F-]~~ G. "fund" means the public election fund;

21 ~~[G-]~~ H. "noncertified candidate" means either a
22 candidate running for a covered office who does not choose to
23 participate in the Voter Action Act and who is not seeking to
24 be a certified candidate or a candidate who files a declaration
25 of intent to participate but who fails to qualify;

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

5 (1) made by a registered voter who is eligible
6 to vote for the covered office that the applicant candidate is
7 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~~] commission and that is
14 signed by the contributor, one copy of which is attached to the
15 list of contributors and sent to the [~~bureau of elections~~]
16 commission;

17 [~~H.~~] J. "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 1 of the election
24 year and ending that year at 5:00 p.m. on the filing date for
25 independent or minor party candidates for the office for which

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1 the candidate is running;

2 [J. ~~"secretary" means the secretary of state or the~~
3 ~~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 32. Section 1-19A-3 NMSA 1978 (being Laws 2003,
8 Chapter 14, Section 3) is amended to read:

9 "1-19A-3. TERMS OF PARTICIPATION--DECLARATION OF
10 INTENT.--

11 A. A candidate choosing to obtain financing
12 pursuant to the Voter Action Act shall first file with the
13 [~~secretary~~] commission a declaration of intent to participate
14 in that act as an applicant candidate for a stated covered
15 office. The declaration of intent shall be filed with the
16 [~~secretary~~] commission prior to or during the qualifying period
17 according to forms and procedures developed by the [~~secretary~~]
18 commission.

19 B. An applicant candidate choosing to participate
20 in the Voter Action Act shall submit a declaration of intent
21 prior to collecting any qualifying contributions and make
22 explicit in the declaration that the candidate has complied
23 with and will continue to comply with that act's contribution
24 and expenditure limits and all other requirements set forth in
25 that act and rules issued by the [~~secretary~~] commission.

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1 C. A candidate shall not be eligible to become an
2 applicant candidate if the candidate has accepted contributions
3 totaling five hundred dollars (\$500) or more or made
4 expenditures totaling five hundred dollars (\$500) or more
5 between the beginning of the qualifying period and filing a
6 declaration of intent."

7 **SECTION 33.** 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~~]
12 commission shall 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) submitted the appropriate number of
17 qualifying contributions;

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

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

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

24 B. The [~~secretary~~] commission shall certify
25 applicant candidates complying with the requirements of this

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1 section as certified candidates as soon as possible and no
2 later than ten days after final submittal of qualifying
3 contributions and certification as a candidate pursuant to
4 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 34. 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. A certified candidate shall not
2 accept contributions or loans from any other source except the
3 certified candidate's political party, as specified in Section
4 1-19A-8 NMSA 1978.

5 D. A certified candidate shall return to the
6 [~~secretary~~] commission, within thirty days after the primary
7 election, any amount that is unspent or unencumbered by the
8 date of the primary election for direct deposit into the fund.

9 E. A certified candidate shall return to the
10 [~~secretary~~] commission, within thirty days after the general
11 election, any amount that is unspent or unencumbered by the
12 date of the general election for direct deposit into the fund."

13 SECTION 35. Section 1-19A-9 NMSA 1978 (being Laws 2003,
14 Chapter 14, Section 9) is amended to read:

15 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

16 A. The [~~secretary~~] commission shall publish
17 guidelines outlining permissible campaign-related expenditures.

18 B. Applicant candidates shall file a report listing
19 seed money contributions and expenditures with their
20 application for certification.

21 C. Applicant candidates shall file qualifying
22 contributions with the [~~secretary~~] commission during the
23 qualifying period according to procedures developed by the
24 [~~secretary~~] commission. In developing these procedures, the
25 [~~secretary~~] commission shall use existing campaign reporting

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1 procedures and deadlines whenever practical.

2 D. Certified candidates shall report expenditures
3 according to the campaign reporting requirements specified in
4 the Election Code.

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

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

20 (1) for the primary election, by 5:00 p.m. on
21 the second Monday in May, by 5:00 p.m. on the eleventh day
22 before the election and by 5:00 p.m. on the Thursday before the
23 election; and

24 (2) for the general election, by 5:00 p.m. the
25 first Tuesday in October, by 5:00 p.m. on the eleventh day

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

3 SECTION 36. Section 1-19A-10 NMSA 1978 (being Laws 2003,
4 Chapter 14, Section 10, as amended) is amended to read:

5 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

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

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

12 (3) carrying out all other specified
13 provisions of the Voter Action Act.

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

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

21 (1) qualifying contributions that have been
22 submitted to the [~~secretary~~] commission;

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

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1 which the money was distributed;

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

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

8 (5) unspent seed money that cannot be used for
9 any other purpose;

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

13 (7) money appropriated by the legislature.

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

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

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

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

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1 Section 63-7-20 NMSA 1978."

2 SECTION 37. Section 1-19A-11 NMSA 1978 (being Laws 2003,
3 Chapter 14, Section 11) is amended to read:

4 "1-19A-11. DETERMINATION OF FUND AMOUNT.--

5 A. By January 1, 2007, and every two years
6 thereafter, the [~~secretary~~] commission shall prepare and
7 provide to the legislature a report documenting, evaluating and
8 making recommendations relating to the administration,
9 implementation and enforcement of the Voter Action Act.

10 B. In the report, the [~~secretary~~] commission shall
11 set out the revenues received to date, the expected costs to
12 the fund for the next election cycle and the amount of the
13 annual appropriation from the legislature that will be required
14 to meet this need."

15 SECTION 38. Section 1-19A-12 NMSA 1978 (being Laws 2003,
16 Chapter 14, Section 12) is amended to read:

17 "1-19A-12. TIMING OF FUND DISTRIBUTION.--

18 A. [~~Beginning with the election cycle that ends~~
19 ~~with the general election in 2006~~] The [~~secretary~~] commission
20 shall distribute money from the fund to certified candidates in
21 accordance with the provisions of Subsections B and C of this
22 section.

23 B. For a primary election certified candidate, the
24 [~~secretary~~] commission shall distribute the amount due to that
25 certified candidate for that covered office within one week of

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1 certification.

2 C. For a candidate certified for the general
3 election, the [~~secretary~~] commission shall distribute the
4 amount due to that certified candidate for that covered office
5 within one week after the primary election or, for a minor
6 party or independent candidate, within one week after
7 certification of the candidate."

8 SECTION 39. Section 1-19A-13 NMSA 1978 (being Laws 2003,
9 Chapter 14, Section 13, as amended) is amended to read:

10 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

11 A. By August 1 [~~2007~~] of each odd-numbered year,
12 the [~~secretary~~] commission shall determine the amount of money
13 to be distributed to each certified candidate for the election
14 cycle ending with the next general election [~~in 2008~~], based on
15 the type of election and the provisions of Subsections B
16 through F of this section.

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

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

24 (2) for the office of justice of the supreme
25 court and judge of the court of appeals, fifteen cents (\$.15)

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1 for each voter of the candidate's party in the state.

2 C. For uncontested primary elections, the amount of
3 money to be distributed to a certified candidate is equal to
4 fifty percent of the amount specified in Subsection B of this
5 section.

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

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

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

15 E. For uncontested general elections, except as
16 provided in Subsection I of this section, the amount of money
17 to be distributed to a certified candidate is equal to fifty
18 percent of the amount specified in Subsection D of this
19 section. If a general election race that is initially
20 uncontested later becomes contested because of the
21 qualification of an independent or minor party candidate to
22 appear on the ballot for that race, an additional amount of
23 money shall be distributed to the certified candidate to make
24 that candidate's total distribution amount equal to the amount
25 distributed pursuant to Subsection D of this section.

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1 F. Once the certification for candidates for the
2 primary election has been completed, the [~~secretary~~] commission
3 shall calculate the total amount of money to be distributed in
4 the primary election cycle, based on the number of certified
5 candidates and the allocations specified in this section. The
6 [~~secretary~~] commission shall increase the total amount by
7 twenty percent to provide funds for additional matching funds
8 in the primary election. The [~~secretary~~] commission shall also
9 prepare an estimate of the total amount of money that might be
10 distributed in the general election cycle. This estimate shall
11 be increased by twenty percent to provide funds for additional
12 matching funds in the general election. If the total amount to
13 be distributed in the primary election cycle, plus the added
14 twenty percent and the estimated total amount to be distributed
15 in the general election cycle, plus the added twenty percent,
16 all taken together, exceed the amount expected to be available
17 in the fund, the [~~secretary~~] commission shall allocate the
18 amount available between the primary and general election
19 cycles. This allocation shall be based on the ratio of the two
20 total amounts.

21 G. If the allocation specified in Subsection F of
22 this section is greater than the total amount available for
23 distribution, then the amounts to be distributed to individual
24 candidates, specified in Subsections B through E of this
25 section, shall each be reduced by the same percentage as the

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1 reduction by which the total amount needed has been reduced
2 relative to the total amount available.

3 H. At least every two years after January 1, 2007,
4 the [~~secretary~~] commission shall evaluate and modify as
5 necessary the dollar values originally determined by
6 Subsections B through E of this section and shall consider and
7 account for inflation in the evaluations.

8 I. No money shall be distributed to candidates in
9 judicial retention elections. No money shall be distributed to
10 judicial candidates in uncontested general elections, provided
11 that if a general election race that is initially uncontested
12 later becomes contested, the certified judicial candidate shall
13 receive a distribution in accordance with Subsection D of this
14 section."

15 SECTION 40. Section 1-19A-14 NMSA 1978 (being Laws 2003,
16 Chapter 14, Section 14, as amended) is amended to read:

17 "1-19A-14. MATCHING FUNDS.--When a certified or
18 noncertified candidate has one or more opponents who are
19 certified candidates and the candidate's campaign finance
20 report or group of reports shows that the sum of the
21 candidate's expenditures and obligations made, or funds raised
22 or borrowed, whichever is greater, alone or in conjunction with
23 expenditures made independently of the candidate to influence
24 the election on behalf of the candidate, exceeds the amount
25 distributed to an opposing certified candidate, the [~~secretary~~]

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1 commission shall issue immediately to any opposing certified
2 candidate an additional amount equivalent to the excess amount
3 reported by the opposing candidate. Total matching funds to a
4 certified candidate in an election are limited to twice the
5 amount originally distributed to that candidate pursuant to
6 Section 1-19A-13 NMSA 1978."

7 SECTION 41. Section 1-19A-15 NMSA 1978 (being Laws 2003,
8 Chapter 14, Section 15) is amended to read:

9 "1-19A-15. ADMINISTRATION--~~[SECRETARY OF STATE]~~
10 COMMISSION--DUTIES.--

11 A. The ~~[secretary]~~ commission shall adopt rules to
12 ensure effective administration of the Voter Action Act.

13 B. The rules shall include procedures for:

- 14 (1) qualifications, certification and
15 disbursement of revenues and return of unspent fund revenues;
16 (2) obtaining qualifying contributions;
17 (3) certification of candidates;
18 (4) collection of revenues; and
19 (5) return of fund disbursements and other
20 money to the fund."

21 SECTION 42. Section 1-19A-16 NMSA 1978 (being Laws 2003,
22 Chapter 14, Section 16) is amended to read:

23 "1-19A-16. APPEALS.--The procedure for challenging a
24 certification decision by the ~~[secretary]~~ commission is as
25 follows:

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1 A. a person aggrieved by a certification decision
2 or a decision regarding the distribution of matching funds may
3 appeal to the [~~secretary~~] commission within three days of the
4 decision. The appeal shall be in writing and shall set forth
5 the reasons for appeal;

6 B. within five days after an appeal is properly
7 made, and after due notice is given to the parties in dispute,
8 the [~~secretary~~] commission shall hold a hearing whereby:

9 (1) the appellant has the burden of providing
10 evidence to demonstrate that the [~~secretary's~~] commission's
11 decision was improper; and

12 (2) the [~~secretary~~] commission shall rule on
13 the appeal within three days after the completion of the
14 hearing;

15 C. the parties in dispute may appeal the decision
16 of the [~~secretary~~] commission by commencing an action in
17 district court; and

18 D. certified candidates whose certification is
19 revoked on appeal shall return to the [~~secretary~~] commission
20 any unspent money distributed from the fund. If the
21 [~~secretary~~] commission or court finds that an appeal was made
22 frivolously or to result in delay or hardship, the [~~secretary~~]
23 commission or court may sanction the moving party by requiring
24 the party to pay costs of the administrative hearing, the court
25 hearing and the opposing parties."

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1 SECTION 43. Section 1-19A-17 NMSA 1978 (being Laws 2003,
2 Chapter 14, Section 17) is amended to read:

3 "1-19A-17. PENALTIES.--

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

18 B. A person who willfully or knowingly violates the
19 provisions of the Voter Action Act or rules of the [~~secretary~~]
20 commission or knowingly makes a false statement in a report
21 required by that act is guilty of a fourth degree felony and,
22 if [~~he~~] the person is a certified candidate, shall return to
23 the fund all money distributed to that candidate."

24 SECTION 44. Section 2-11-2 NMSA 1978 (being Laws 1977,
25 Chapter 261, Section 2, as amended) is amended to read:

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1 "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation
2 Act:

3 A. "compensation" means any money, per diem,
4 salary, fee or portion thereof or the equivalent in services
5 rendered or in-kind contributions received or to be received in
6 return for lobbying services performed or to be performed;

7 B. "expenditure" means a payment, transfer or
8 distribution or obligation or promise to pay, transfer or
9 distribute any money or other thing of value but does not
10 include a lobbyist's own personal living expenses and the
11 expenses incidental to establishing and maintaining an office
12 in connection with lobbying activities or compensation paid to
13 a lobbyist by a lobbyist's employer;

14 C. "legislative committee" means a committee
15 created by the legislature, including interim and standing
16 committees of the legislature;

17 D. "lobbying" means attempting to influence:

18 (1) a decision related to any matter to be
19 considered or being considered by the legislative branch of
20 state government or any legislative committee or any
21 legislative matter requiring action by the governor or awaiting
22 action by the governor; or

23 (2) an official action;

24 E. "lobbyist" means any individual who is
25 compensated for the specific purpose of lobbying; is designated

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1 by an interest group or organization to represent it on a
2 substantial or regular basis for the purpose of lobbying; or in
3 the course of [~~his~~] employment, is engaged in lobbying on a
4 substantial or regular basis. "Lobbyist" does not include:

5 (1) an individual who appears on [~~his~~] the
6 individual's own behalf in connection with legislation or an
7 official action;

8 (2) [~~any~~] an elected or appointed officer of
9 the state or its political subdivisions or an Indian nation,
10 tribe or pueblo acting in [~~his~~] the officer's official
11 capacity;

12 (3) an employee of the state or its political
13 subdivisions, specifically designated by an elected or
14 appointed officer of the state or its political subdivision,
15 who appears before a legislative committee or in a rulemaking
16 proceeding only to explain the effect of legislation or a rule
17 on [~~his~~] the designated employee's agency or political
18 subdivision, provided the elected or appointed officer of the
19 state or its political subdivision keeps for public inspection
20 and files with the [~~secretary of~~] state ethics commission such
21 designation;

22 (4) [~~any~~] a designated member of the staff of
23 an elected state official, provided the elected state official
24 keeps for public inspection and files with the [~~secretary of~~]
25 state ethics commission such designation;

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1 (5) a member of the legislature, the staff of
2 [~~any~~] a member of the legislature or the staff of [~~any~~] a
3 legislative committee when addressing legislation;

4 (6) [~~any~~] a witness called by a legislative
5 committee or administrative agency to appear before that
6 legislative committee or agency in connection with legislation
7 or an official action;

8 (7) an individual who provides only oral or
9 written public testimony in connection with a legislative
10 committee or in a rulemaking proceeding and whose name and the
11 interest on behalf of which [~~he~~] the individual testifies have
12 been clearly and publicly identified; or

13 (8) a publisher, owner or employee of the
14 print media, radio or television, while gathering or
15 disseminating news or editorial comment to the general public
16 in the ordinary course of business;

17 F. "lobbyist's employer" means the person whose
18 interests are being represented and by whom a lobbyist is
19 directly or indirectly retained, compensated or employed;

20 G. "official action" means the action or nonaction
21 of a state official or state agency, board or commission acting
22 in a rulemaking proceeding;

23 H. "person" means an individual, partnership,
24 association, committee, federal, state or local governmental
25 entity or agency, however constituted, public or private

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1 corporation or any other organization or group of persons who
2 are voluntarily acting in concert;

3 I. "political contribution" means a gift,
4 subscription, loan, advance or deposit of ~~[any]~~ money or other
5 thing of value, including the estimated value of an in-kind
6 contribution, that is made or received for the purpose of
7 influencing a primary, general or statewide election, including
8 a constitutional or other question submitted to the voters, or
9 for the purpose of paying a debt incurred in any such election;

10 J. "prescribed form" means a form prepared and
11 prescribed by the ~~[secretary of]~~ state ethics commission;

12 K. "rulemaking proceeding" means a formal process
13 conducted by a state agency, board or commission for the
14 purpose of adopting a rule, regulation, standard, policy or
15 other requirement of general applicability and does not include
16 adjudicatory proceedings; and

17 L. "state public officer" means a person holding a
18 statewide office provided for in the constitution of New
19 Mexico."

20 SECTION 45. Section 2-11-3 NMSA 1978 (being Laws 1977,
21 Chapter 261, Section 3, as amended) is amended to read:

22 "2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--
23 MODIFICATION TO STATEMENT.--

24 A. In the month of January prior to each regular
25 session or before any service covered by the Lobbyist

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1 Regulation Act commences, any individual who is initially
2 employed or retained as a lobbyist shall register with the
3 [~~secretary of~~] state ethics commission by paying an annual
4 filing fee of fifty dollars (\$50.00) for each of the lobbyist's
5 employers and by filing a single registration statement under
6 oath on a prescribed form showing:

7 (1) the lobbyist's full name, permanent
8 business address and business address while lobbying; and

9 (2) the name and address of each of the
10 lobbyist's employers.

11 B. No registration fee shall be required of
12 individuals receiving only reimbursement of personal expenses
13 and no other compensation or salary for lobbying. No
14 expenditure statement required by Section 2-11-6 NMSA 1978
15 shall be required if the lobbyist anticipates making or
16 incurring and makes or incurs no expenditures or political
17 contributions under Section 2-11-6 NMSA 1978. The lobbyist
18 shall indicate in the lobbyist's registration statement whether
19 those circumstances apply to the lobbyist.

20 C. No more than five days after a registration is
21 filed, the [~~secretary of~~] state ethics commission shall publish
22 the registration statement on the [~~secretary of state's~~]
23 commission's lobbying disclosure [~~web site~~] website.

24 D. For each employer listed in Paragraph (2) of
25 Subsection A of this section, the lobbyist shall file the

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1 following information:

2 (1) a full disclosure of the sources of funds
3 used for lobbying;

4 (2) a written statement from each of the
5 lobbyist's employers authorizing the lobbyist to lobby on the
6 employer's behalf;

7 (3) a brief description of the matters in
8 reference to which the service is to be rendered; and

9 (4) the name and address of the person, if
10 other than the lobbyist or the lobbyist's employer, who will
11 have custody of the accounts, bills, receipts, books, papers
12 and documents required to be kept under the provisions of the
13 Lobbyist Regulation Act.

14 E. For each succeeding year that an individual is
15 employed or retained as a lobbyist by the same employer, and
16 for whom all the information disclosed in the initial
17 registration statement remains substantially the same, the
18 lobbyist shall file a simple annual registration renewal in
19 January and pay the fifty-dollar (\$50.00) filing fee for each
20 of the lobbyist's employers together with a short, abbreviated
21 prescribed form for renewal.

22 F. Whenever there is a modification of the facts
23 required to be set forth by this section or there is a
24 termination of the lobbyist's employment as a lobbyist before
25 the end of the calendar year, the lobbyist shall notify the

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1 [~~secretary of~~] state ethics commission within one month of such
2 occurrence and shall furnish full information concerning the
3 modification or termination. If the lobbyist's employment
4 terminates at the end of a calendar year, no separate
5 termination report need be filed."

6 SECTION 46. Section 2-11-6 NMSA 1978 (being Laws 1977,
7 Chapter 261, Section 6, as amended) is amended to read:

8 "2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--
9 REPORTING PERIODS.--

10 A. Each lobbyist or lobbyist's employer who makes
11 or incurs expenditures or political contributions for the
12 benefit of or in opposition to a state legislator or candidate
13 for the state legislature, a state public officer or candidate
14 for state public office, a board or commission member or state
15 employee who is involved in an official action affecting the
16 lobbyist's employer or in support of or in opposition to a
17 ballot issue or pending legislation or official action shall
18 file an expenditure report with the [~~secretary of~~] state ethics
19 commission on a prescribed form or in an electronic format
20 approved by the [~~secretary of state~~] commission and published
21 by the [~~secretary of state~~] commission in accordance with
22 Section 2-11-7 NMSA 1978. The expenditure report shall include
23 a sworn statement that sets forth:

24 (1) the cumulative total of the expenditures
25 made or incurred by the employer or lobbyist during the covered

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1 reporting period, indicating the amount spent and a description
2 of the expenditure. The list shall be separated into the
3 following categories:

4 (a) meals and beverages;

5 (b) other entertainment expenditures;

6 (c) gifts; and

7 (d) other expenditures;

8 (2) each political contribution made,
9 identified by amount, date and name of the candidate or ballot
10 issue supported or opposed; and

11 (3) the names, addresses and occupations of
12 other contributors and the amounts of their separate political
13 contributions if the lobbyist or lobbyist's employer delivers
14 directly or indirectly separate contributions from those
15 contributors in excess of five hundred dollars (\$500) in the
16 aggregate for each election to a candidate, a campaign
17 committee or anyone authorized by a candidate to receive funds
18 on the candidate's behalf.

19 B. If the expenditure report is filed
20 electronically, the report shall be electronically
21 authenticated by the lobbyist or the lobbyist's employer using
22 an electronic signature as prescribed by the [~~secretary of~~
23 state ethics commission in conformance with the Electronic
24 Authentication of Documents Act and the Uniform Electronic
25 Transactions Act. For the purposes of the Lobbyist Regulation

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1 Act, a report that is electronically authenticated in
2 accordance with the provisions of this subsection shall be
3 deemed to have been subscribed and sworn to by the lobbyist or
4 the lobbyist's employer that is required to file the report.

5 C. In identifying expenditures pursuant to the
6 provisions of Paragraph (1) of Subsection A of this section,
7 any individual expenditure that is more than the threshold
8 level established in the Internal Revenue Code of 1986, as
9 amended, that must be reported separately to claim a business
10 expense deduction, as published by the secretary of state,
11 shall be identified by amount, date, purpose, type of
12 expenditure and name of the person who received or was
13 benefited by the expenditure; provided, in the case of special
14 events, including parties, dinners, athletic events,
15 entertainment and other functions, to which all members of the
16 legislature, to which all members of either house or any
17 legislative committee or to which all members of a board or
18 commission are invited, expenses need not be allocated to each
19 individual who attended, but the date, location, name of the
20 body invited and total expenses incurred shall be reported.

21 D. The reports required pursuant to the provisions
22 of the Lobbyist Regulation Act shall be filed:

23 (1) by January 15 for all expenditures and
24 political contributions made or incurred during the preceding
25 year and not previously reported;

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1 (2) within forty-eight hours for each separate
2 expenditure made or incurred during a legislative session that
3 was for five hundred dollars (\$500) or more; and

4 (3) by May 1 for all expenditures and
5 political contributions made or incurred through April 25 of
6 the current year and not previously reported.

7 E. A lobbyist's personal living expenses and the
8 expenses incidental to establishing and maintaining an office
9 in connection with lobbying activities or compensation paid to
10 a lobbyist by a lobbyist's employer need not be reported.

11 F. A lobbyist or lobbyist's employer shall obtain
12 and preserve all records, accounts, bills, receipts, books,
13 papers and documents necessary to substantiate the financial
14 statements required to be made under the Lobbyist Regulation
15 Act for a period of two years from the date of filing of the
16 report containing such items. When the lobbyist is required
17 under the terms of the lobbyist's employment to turn over any
18 such records to the lobbyist's employer, responsibility for the
19 preservation of them as required by this section and the filing
20 of reports required by this section shall rest with the
21 employer. Such records shall be made available to the
22 [~~secretary of~~] state ethics commission or attorney general upon
23 written request.

24 G. A lobbyist's employer who also engages in
25 lobbying shall also comply with the provisions of this section.

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1 H. An organization of two or more persons,
2 including an individual who makes any representation as being
3 an organization, that within one calendar year expends funds in
4 excess of two thousand five hundred dollars (\$2,500) not
5 otherwise reported under the Lobbyist Regulation Act to conduct
6 an advertising campaign for the purpose of lobbying shall
7 register with the [~~secretary of~~] state ethics commission within
8 forty-eight hours after expending two thousand five hundred
9 dollars (\$2,500). Such registration shall indicate the name of
10 the organization and the names, addresses and occupations of
11 any of its principals, organizers or officers and shall include
12 the name of any lobbyist or lobbyist's employer who is a member
13 of the organization. Within fifteen days after a legislative
14 session, the organization shall report the contributions,
15 pledges to contribute, expenditures and commitments to expend
16 for the advertising campaign for the purpose of lobbying,
17 including the names, addresses and occupations of the
18 contributors, to the [~~secretary of~~] state ethics commission on
19 a prescribed form."

20 SECTION 47. Section 2-11-7 NMSA 1978 (being Laws 1977,
21 Chapter 261, Section 7, as amended) is amended to read:

22 "2-11-7. REGISTRATION AND EXPENDITURE STATEMENT--
23 PRESERVATION AS PUBLIC RECORD--ONLINE REPORTS.--

24 A. Each registration and expenditure statement as
25 required by the Lobbyist Regulation Act shall be archived and

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1 accessible on the [~~secretary of state's~~] state ethics
2 commission's lobbyist disclosure [~~web site~~] website for a
3 period of at least ten years from the date of filing as a
4 public record, open to public inspection at any reasonable
5 time. Unless an action or prosecution is pending that requires
6 preserving the report, it may be destroyed ten years after the
7 date of filing.

8 B. Lobbyist registrations and expenditure
9 statements shall be kept and maintained on the [~~secretary of~~
10 ~~state's~~] commission's lobbyist disclosure [~~web site~~] website
11 and shall be available in searchable and downloadable formats.
12 The [~~secretary of state~~] commission shall update the [~~web site~~]
13 website no less than monthly throughout the year and as
14 expeditiously as possible when the legislature is in session.

15 C. For the purposes of this section, "accessible"
16 means, with respect to the [~~secretary of state's~~] state ethics
17 commission's lobbyist disclosure [~~web site~~] website, that all
18 records are easily searchable, sortable and downloadable by the
19 public."

20 SECTION 48. Section 2-11-8.2 NMSA 1978 (being Laws 1977,
21 Chapter 261, Section 4, as amended) is amended to read:

22 "2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--
23 BINDING ARBITRATION--CIVIL PENALTIES.--

24 A. The [~~secretary of~~] state ethics commission shall
25 advise and seek to educate all persons required to perform

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1 duties pursuant to the Lobbyist Regulation Act of those duties.
2 This includes advising all registered lobbyists at least
3 annually of the Lobbyist Regulation Act's deadlines for
4 submitting required reports. The [~~secretary of state~~]
5 commission, in consultation with the attorney general, shall
6 issue advisory opinions, when requested to do so in writing, on
7 matters concerning the Lobbyist Regulation Act. All prescribed
8 forms prepared shall be clear and easy to complete.

9 B. The [~~secretary of~~] state ethics commission may
10 conduct thorough examinations of reports and initiate
11 investigations to determine whether the Lobbyist Regulation Act
12 has been violated. Additionally, any person who believes that
13 a provision of that act has been violated may file a written
14 complaint with the [~~secretary of state~~] commission. The
15 [~~secretary of state~~] commission shall adopt procedures for
16 issuing advisory opinions, processing complaints and
17 notifications of violations.

18 C. The [~~secretary of~~] state ethics commission shall
19 at all times seek to ensure voluntary compliance with the
20 provisions of the Lobbyist Regulation Act. If the [~~secretary~~
21 ~~of state~~] commission determines that a provision of that act
22 for which a penalty may be imposed has been violated, the
23 [~~secretary of state~~] commission shall by written notice set
24 forth the violation and the fine imposed and inform the person
25 that [~~he~~] the person has ten working days to provide a written

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1 explanation, under penalty of perjury, stating any reason the
2 violation occurred. If a timely explanation is filed and the
3 ~~[secretary of state]~~ commission determines that good cause
4 exists, the ~~[secretary of state]~~ commission may by a written
5 notice of final action partially or fully waive any fine
6 imposed. A written notice of final action shall be sent by
7 certified mail.

8 D. If the person charged disputes the ~~[secretary of~~
9 ~~state's]~~ state ethics commission's determination, including an
10 advisory opinion, the person charged may request binding
11 arbitration within ten working days of the date of the final
12 action. Any penalty imposed shall be due and payable within
13 ten working days of the notice of final action. No additional
14 penalty shall accrue pending issuance of the arbitration
15 decision. Fines paid pursuant to a notice of final action that
16 are subsequently reduced or dismissed shall be reimbursed with
17 interest within ten working days after the filing of the
18 arbitration decision with the ~~[secretary of state]~~ commission.
19 Interest on the reduced or dismissed portion of the fine shall
20 be the same as the rate of interest earned by the ~~[secretary of~~
21 ~~state's]~~ commission's escrow account to be established by the
22 department of finance and administration.

23 E. An arbitration hearing shall be conducted by a
24 single arbitrator selected within ten days by the person
25 against whom the penalty has been imposed from a list of five

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1 arbitrators provided by the [~~secretary of~~] state [~~Neither the~~
2 ~~secretary of state nor~~] ethics commission. A person subject to
3 the Lobbyist Regulation Act, Campaign Reporting Act or
4 Financial Disclosure Act [~~may~~] shall not serve as an
5 arbitrator. Arbitrators shall be considered to be independent
6 contractors, not public officers or employees, and shall not be
7 paid per diem and mileage.

8 F. The arbitrator may impose any penalty and take
9 any action the [~~secretary of~~] state ethics commission is
10 authorized to take. The arbitrator shall state the reasons for
11 [~~his~~] the arbitrator's decision in a written document that
12 shall be a public record. The decision shall be final and
13 binding. The decision shall be issued and filed with the
14 [~~secretary of state~~] commission within thirty days of the
15 conclusion of the hearing. Unless otherwise provided for in
16 this section, or by rule or regulation adopted by the
17 [~~secretary of state~~] commission, the procedures for the
18 arbitration shall be governed by the Uniform Arbitration Act.
19 No arbitrator shall be subject to liability for actions taken
20 pursuant to this section.

21 G. Any person who files a report after the deadline
22 imposed by the Lobbyist Regulation Act, or any person who files
23 a false or incomplete report, shall be liable for and shall pay
24 to the [~~secretary of~~] state ethics commission fifty dollars
25 (\$50.00) per day for each regular working day after the time

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1 required for the filing of the report until the complete report
2 is filed, up to a maximum of five thousand dollars (\$5,000).

3 H. The [~~secretary of~~] state ethics commission may
4 refer a matter to the attorney general or a district attorney
5 for a civil injunctive or other appropriate order or
6 enforcement."

7 SECTION 49. Section 10-15-1 NMSA 1978 (being Laws 1974,
8 Chapter 91, Section 1, as amended) is amended to read:

9 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN
10 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

11 A. In recognition of the fact that a representative
12 government is dependent upon an informed electorate, it is
13 declared to be public policy of this state that all persons are
14 entitled to the greatest possible information regarding the
15 affairs of government and the official acts of those officers
16 and employees who represent them. The formation of public
17 policy or the conduct of business by vote shall not be
18 conducted in closed meeting. All meetings of any public body
19 except the legislature and the courts shall be public meetings,
20 and all persons so desiring shall be permitted to attend and
21 listen to the deliberations and proceedings. Reasonable
22 efforts shall be made to accommodate the use of audio and video
23 recording devices.

24 B. All meetings of a quorum of members of any
25 board, commission, administrative adjudicatory body or other

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1 policymaking body of any state agency or any agency or
2 authority of any county, municipality, district or political
3 subdivision, held for the purpose of formulating public policy,
4 including the development of personnel policy, rules,
5 regulations or ordinances, discussing public business or taking
6 any action within the authority of or the delegated authority
7 of any board, commission or other policymaking body are
8 declared to be public meetings open to the public at all times,
9 except as otherwise provided in the constitution of New Mexico
10 or the Open Meetings Act. No public meeting once convened that
11 is otherwise required to be open pursuant to the Open Meetings
12 Act shall be closed or dissolved into small groups or
13 committees for the purpose of permitting the closing of the
14 meeting.

15 C. If otherwise allowed by law or rule of the
16 public body, a member of a public body may participate in a
17 meeting of the public body by means of a conference telephone
18 or other similar communications equipment when it is otherwise
19 difficult or impossible for the member to attend the meeting in
20 person; provided that each member participating by conference
21 telephone can be identified when speaking, all participants are
22 able to hear each other at the same time and members of the
23 public attending the meeting are able to hear any member of the
24 public body who speaks during the meeting.

25 D. Any meetings at which the discussion or adoption

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1 of any proposed resolution, rule, regulation or formal action
2 occurs and at which a majority or quorum of the body is in
3 attendance, and any closed meetings, shall be held only after
4 reasonable notice to the public. The affected body shall
5 determine at least annually in a public meeting what notice for
6 a public meeting is reasonable when applied to that body. That
7 notice shall include broadcast stations licensed by the federal
8 communications commission and newspapers of general circulation
9 that have provided a written request for such notice.

10 E. A public body may recess and reconvene a meeting
11 to a day subsequent to that stated in the meeting notice if,
12 prior to recessing, the public body specifies the date, time
13 and place for continuation of the meeting and, immediately
14 following the recessed meeting, posts notice of the date, time
15 and place for the reconvened meeting on or near the door of the
16 place where the original meeting was held and in at least one
17 other location appropriate to provide public notice of the
18 continuation of the meeting. Only matters appearing on the
19 agenda of the original meeting may be discussed at the
20 reconvened meeting.

21 F. Meeting notices shall include an agenda
22 containing a list of specific items of business to be discussed
23 or transacted at the meeting or information on how the public
24 may obtain a copy of such an agenda. Except in the case of an
25 emergency or in the case of a public body that ordinarily meets

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1 more frequently than once per week, at least seventy-two hours
2 prior to the meeting, the agenda shall be available to the
3 public and posted on the public body's ~~[web-site]~~ website, if
4 one is maintained. A public body that ordinarily meets more
5 frequently than once per week shall post a draft agenda at
6 least seventy-two hours prior to the meeting and a final agenda
7 at least thirty-six hours prior to the meeting. Except for
8 emergency matters, a public body shall take action only on
9 items appearing on the agenda. For purposes of this
10 subsection, "emergency" refers to unforeseen circumstances
11 that, if not addressed immediately by the public body, will
12 likely result in injury or damage to persons or property or
13 substantial financial loss to the public body. Within ten days
14 of taking action on an emergency matter, the public body shall
15 report to the attorney general's office the action taken and
16 the circumstances creating the emergency; provided that the
17 requirement to report to the attorney general is waived upon
18 the declaration of a state or national emergency.

19 G. The board, commission or other policymaking body
20 shall keep written minutes of all its meetings. The minutes
21 shall include at a minimum the date, time and place of the
22 meeting, the names of members in attendance and those absent,
23 the substance of the proposals considered and a record of any
24 decisions and votes taken that show how each member voted. All
25 minutes are open to public inspection. Draft minutes shall be

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1 prepared within ten working days after the meeting and shall be
2 approved, amended or disapproved at the next meeting where a
3 quorum is present. Minutes shall not become official until
4 approved by the policymaking body.

5 H. The provisions of Subsections A, B and G of this
6 section do not apply to:

7 (1) meetings pertaining to issuance,
8 suspension, renewal or revocation of a license, except that a
9 hearing at which evidence is offered or rebutted shall be open.
10 All final actions on the issuance, suspension, renewal or
11 revocation of a license shall be taken at an open meeting;

12 (2) limited personnel matters; provided that
13 for purposes of the Open Meetings Act, "limited personnel
14 matters" means the discussion of hiring, promotion, demotion,
15 dismissal, assignment or resignation of or the investigation or
16 consideration of complaints or charges against any individual
17 public employee; provided further that this paragraph is not to
18 be construed as to exempt final actions on personnel from being
19 taken at open public meetings, nor does it preclude an
20 aggrieved public employee from demanding a public hearing.
21 Judicial candidates interviewed by any commission shall have
22 the right to demand an open interview;

23 (3) deliberations by a public body in
24 connection with an administrative adjudicatory proceeding. For
25 purposes of this paragraph, "administrative adjudicatory

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1 proceeding" means a proceeding brought by or against a person
2 before a public body in which individual legal rights, duties
3 or privileges are required by law to be determined by the
4 public body after an opportunity for a trial-type hearing.

5 Except as otherwise provided in this section, the actual
6 administrative adjudicatory proceeding at which evidence is
7 offered or rebutted and any final action taken as a result of
8 the proceeding shall occur in an open meeting;

9 (4) the discussion of personally identifiable
10 information about any individual student, unless the student or
11 the student's parent or guardian requests otherwise;

12 (5) meetings for the discussion of bargaining
13 strategy preliminary to collective bargaining negotiations
14 between the policymaking body and a bargaining unit
15 representing the employees of that policymaking body and
16 collective bargaining sessions at which the policymaking body
17 and the representatives of the collective bargaining unit are
18 present;

19 (6) that portion of meetings at which a
20 decision concerning purchases in an amount exceeding two
21 thousand five hundred dollars (\$2,500) that can be made only
22 from one source is discussed and that portion of meetings at
23 which the contents of competitive sealed proposals solicited
24 pursuant to the Procurement Code are discussed during the
25 contract negotiation process. The actual approval of purchase

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1 of the item or final action regarding the selection of a
2 contractor shall be made in an open meeting;

3 (7) meetings subject to the attorney-client
4 privilege pertaining to threatened or pending litigation in
5 which the public body is or may become a participant;

6 (8) meetings for the discussion of the
7 purchase, acquisition or disposal of real property or water
8 rights by the public body;

9 (9) those portions of meetings of committees
10 or boards of public hospitals where strategic and long-range
11 business plans or trade secrets are discussed; ~~and~~

12 (10) that portion of a meeting of the gaming
13 control board dealing with information made confidential
14 pursuant to the provisions of the Gaming Control Act; and

15 (11) meetings of the state ethics commission
16 relating to complaints or investigations of alleged ethics
17 violations.

18 I. If any meeting is closed pursuant to the
19 exclusions contained in Subsection H of this section:

20 (1) the closure, if made in an open meeting,
21 shall be approved by a majority vote of a quorum of the
22 policymaking body; the authority for the closure and the
23 subject to be discussed shall be stated with reasonable
24 specificity in the motion calling for the vote on a closed
25 meeting; the vote shall be taken in an open meeting; and the

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1 vote of each individual member shall be recorded in the
2 minutes. Only those subjects announced or voted upon prior to
3 closure by the policymaking body may be discussed in a closed
4 meeting; or

5 (2) if a closure is called for when the
6 policymaking body is not in an open meeting, the closed meeting
7 shall not be held until public notice, appropriate under the
8 circumstances, stating the specific provision of the law
9 authorizing the closed meeting and stating with reasonable
10 specificity the subject to be discussed is given to the members
11 and to the general public.

12 J. Following completion of any closed meeting, the
13 minutes of the open meeting that was closed or the minutes of
14 the next open meeting if the closed meeting was separately
15 scheduled shall state that the matters discussed in the closed
16 meeting were limited only to those specified in the motion for
17 closure or in the notice of the separate closed meeting. This
18 statement shall be approved by the public body under Subsection
19 G of this section as part of the minutes."

20 SECTION 50. Section 10-16-11 NMSA 1978 (being Laws 1967,
21 Chapter 306, Section 11, as amended) is amended to read:

22 "10-16-11. CODES OF CONDUCT.--

23 A. By January 1, 1994, each elected statewide
24 executive branch public officer shall adopt a general code of
25 conduct for employees subject to ~~his~~ the officer's control.

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1 The New Mexico legislative council shall adopt a general code
2 of conduct for all legislative branch employees. The general
3 codes of conduct shall be based on the principles set forth in
4 the Governmental Conduct Act.

5 B. Within thirty days after the general codes of
6 conduct are adopted, they shall be given to and reviewed with
7 all executive and legislative branch officers and employees.
8 All new public officers and employees of the executive and
9 legislative branches shall review the employees' general code
10 of conduct prior to or at the time of being hired.

11 C. The head of every executive and legislative
12 agency and institution of the state may draft a separate code
13 of conduct for all public officers and employees in that agency
14 or institution. The separate agency code of conduct shall
15 prescribe standards, in addition to those set forth in the
16 Governmental Conduct Act and the general codes of conduct for
17 all executive and legislative branch public officers and
18 employees, that are peculiar and appropriate to the function
19 and purpose for which the agency or institution was created or
20 exists. The separate codes, upon approval of the responsible
21 executive branch public officer for executive branch public
22 officers and employees or the New Mexico legislative council
23 for legislative branch employees, govern the conduct of the
24 public officers and employees of that agency or institution
25 and, except for those public officers and employees removable

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1 only by impeachment, shall, if violated, constitute cause for
2 dismissal, demotion or suspension. The head of each executive
3 and legislative branch agency shall adopt ongoing education
4 programs to advise public officers and employees about the
5 codes of conduct. All codes shall be filed with the [~~secretary~~
6 ~~of~~] state ethics commission and are open to public inspection.

7 D. Codes of conduct shall be reviewed at least once
8 every four years. An amended code shall be filed as provided
9 in Subsection C of this section.

10 E. All legislators shall attend a minimum of two
11 hours of ethics continuing education and training biennially."

12 SECTION 51. Section 10-16-13.1 NMSA 1978 (being Laws
13 1993, Chapter 46, Section 35) is amended to read:

14 "10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

15 A. The [~~secretary of~~] state ethics commission shall
16 advise and seek to educate all persons required to perform
17 duties under the Governmental Conduct Act of those duties.
18 This includes advising all those persons at least annually of
19 that act's ethical principles.

20 B. The [~~secretary of~~] state ethics commission shall
21 seek first to ensure voluntary compliance with the provisions
22 of the Governmental Conduct Act. A person who violates that
23 act unintentionally or for good cause shall be given ten days'
24 notice to correct the matter. Referrals for civil enforcement
25 of that act shall be pursued only after efforts to secure

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1 voluntary compliance with that act have failed."

2 SECTION 52. Section 10-16-14 NMSA 1978 (being Laws 1967,
3 Chapter 306, Section 14, as amended) is amended to read:

4 "10-16-14. ENFORCEMENT PROCEDURES.--

5 A. The [~~secretary of~~] state ethics commission may
6 refer suspected violations of the Governmental Conduct Act to
7 the attorney general, district attorney or appropriate state
8 agency or legislative body for enforcement. If a suspected
9 violation involves the office of the [~~secretary of~~] state
10 ethics commission, the attorney general may enforce that act.
11 If a suspected violation involves the office of the attorney
12 general, a district attorney may enforce that act.

13 B. Violation of the provisions of the Governmental
14 Conduct Act by any legislator is grounds for discipline by the
15 appropriate legislative body.

16 C. If the attorney general determines that there is
17 sufficient cause to file a complaint against a public officer
18 removable only by impeachment, [~~he~~] the attorney general shall
19 refer the matter to the house of representatives of the
20 legislature. If within thirty days after the referral the
21 house of representatives has neither formally declared that the
22 charges contained in the complaint are not substantial nor
23 instituted hearings on the complaint, the attorney general
24 shall make public the nature of the charges, but [~~he~~] the
25 attorney general shall make clear that the merits of the

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1 charges have never been determined. Days during which the
2 legislature is not in session shall not be included in
3 determining the thirty-day period.

4 D. Violation of the provisions of the Governmental
5 Conduct Act by any public officer or employee, other than those
6 covered by Subsection C of this section, is grounds for
7 discipline, including dismissal, demotion or suspension.
8 Complaints against executive branch employees may be filed with
9 the agency head and reviewed pursuant to the procedures
10 provided in the Personnel Act. Complaints against legislative
11 branch employees may be filed with and reviewed pursuant to
12 procedures adopted by the New Mexico legislative council.
13 Complaints against judicial branch employees may be filed and
14 reviewed pursuant to the procedures provided in the judicial
15 personnel rules.

16 E. Subject to the provisions of this section, the
17 provisions of the Governmental Conduct Act may be enforced by
18 the attorney general. Except as regards legislators or
19 statewide elected officials, a district attorney in the county
20 where a person who allegedly violated the provisions resides or
21 where ~~[a]~~ an alleged violation occurred may also enforce that
22 act. Enforcement actions may include seeking civil injunctive
23 or other appropriate orders."

24 SECTION 53. Section 10-16-18 NMSA 1978 (being Laws 1995,
25 Chapter 153, Section 23) is amended to read:

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1 "10-16-18. ENFORCEMENT--CIVIL PENALTIES.--

2 A. If the [~~secretary of~~] state ethics commission
3 reasonably believes that a person committed, or is about to
4 commit, a violation of the Governmental Conduct Act, the
5 [~~secretary of state~~] commission shall refer the matter to the
6 attorney general or a district attorney for enforcement.

7 B. The attorney general or a district attorney may
8 institute a civil action in district court if a violation has
9 occurred or to prevent a violation of any provision of the
10 Governmental Conduct Act. Relief may include a permanent or
11 temporary injunction, a restraining order or any other
12 appropriate order, including an order for a civil penalty of
13 two hundred fifty dollars (\$250) for each violation not to
14 exceed five thousand dollars (\$5,000)."

15 SECTION 54. Section 10-16A-1 NMSA 1978 (being Laws 1993,
16 Chapter 46, Section 39) is amended to read:

17 "10-16A-1. SHORT TITLE--FINANCIAL DISCLOSURE ACT.--
18 [~~Sections 39 through 45 of this act~~] Chapter 10, Article 16A
19 NMSA 1978 may be cited as the "Financial Disclosure Act"."

20 SECTION 55. Section 10-16A-3 NMSA 1978 (being Laws 1993,
21 Chapter 46, Section 41, as amended) is amended to read:

22 "10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES
23 AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON
24 BALLOT OR APPOINTMENT.--

25 A. At the time of filing a declaration of candidacy

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1 or nominating petition, a candidate for legislative or
2 statewide office shall file with the proper filing officer, as
3 defined in Section 1-8-25 NMSA 1978, a financial disclosure
4 statement on a prescribed form. In addition, each year
5 thereafter during the month of January, a legislator and a
6 person holding a statewide office shall file with the proper
7 filing officer a financial disclosure statement. [~~If the~~
8 ~~proper filing officer is not the secretary of state~~] The proper
9 filing officer shall forward a copy of [~~the~~] each financial
10 disclosure statement to the [~~secretary of~~] state ethics
11 commission within seventy-two hours of its filing.

12 B. A state agency head, an official whose
13 appointment to a board or commission is subject to confirmation
14 by the senate or a member of the insurance nominating committee
15 shall file with the [~~secretary of~~] state ethics commission a
16 financial disclosure statement within thirty days of
17 appointment and during the month of January every year
18 thereafter that the person holds public office.

19 C. The financial disclosure statement shall include
20 for any person identified in Subsection A or B of this section
21 and the person's spouse the following information for the prior
22 calendar year:

23 (1) the full name, mailing address and
24 residence address of each person covered in the disclosure
25 statement, except the address of the spouse need not be

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1 disclosed; the name and address of the person's and spouse's
2 employer and the title or position held; and a brief
3 description of the nature of the business or occupation;

4 (2) all sources of gross income of more than
5 five thousand dollars (\$5,000) to each person covered in the
6 disclosure statement, identified by general category
7 descriptions that disclose the nature of the income source, in
8 the following broad categories: law practice or consulting
9 operation or similar business, finance and banking, farming and
10 ranching, medicine and health care, insurance (as a business
11 and not as payment on an insurance claim), oil and gas,
12 transportation, utilities, general stock market holdings,
13 bonds, government, education, manufacturing, real estate,
14 consumer goods sales with a general description of the consumer
15 goods and the category "other", with direction that the income
16 source be similarly described. In describing a law practice,
17 consulting operation or similar business of the person or
18 spouse, the major areas of specialization or income sources
19 shall be described, and if the spouse or a person in the
20 reporting person's or spouse's law firm, consulting operation
21 or similar business is or was during the reporting calendar
22 year or the prior calendar year a registered lobbyist under the
23 Lobbyist Regulation Act, the names and addresses of all clients
24 represented for lobbying purposes during those two years shall
25 be disclosed;

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1 (3) a general description of the type of real
2 estate owned in New Mexico, other than a personal residence,
3 and the county where it is located;

4 (4) all other New Mexico business interests
5 not otherwise listed of ten thousand dollars (\$10,000) or more
6 in a New Mexico business or entity, including any position held
7 and a general statement of purpose of the business or entity;

8 (5) all memberships held by the reporting
9 individual and the individual's spouse on boards of for-profit
10 businesses in New Mexico;

11 (6) all New Mexico professional licenses held;

12 (7) each state agency that was sold goods or
13 services in excess of five thousand dollars (\$5,000) during the
14 prior calendar year by a person covered in the disclosure
15 statement;

16 (8) each state agency, other than a court,
17 before which a person covered in the disclosure statement
18 represented or assisted clients in the course of the person's
19 employment during the prior calendar year; and

20 (9) a general category that allows the person
21 filing the disclosure statement to provide whatever other
22 financial interest or additional information the person
23 believes should be noted to describe potential areas of
24 interest that should be disclosed.

25 D. A complete financial disclosure statement shall

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1 be filed every year. The [~~secretary of~~] state ethics
2 commission shall mail each elected official required to file a
3 financial disclosure statement a copy of any statement the
4 person filed the previous year.

5 E. The financial disclosure statements filed
6 pursuant to this section are public records open to public
7 inspection during regular office hours and shall be retained by
8 the state for five years from the date of filing.

9 F. A person who files a financial disclosure
10 statement may file an amended statement at any time to reflect
11 significant changed circumstances that occurred since the last
12 statement was filed.

13 G. A candidate for a legislative or statewide
14 office who fails or refuses to file a financial disclosure
15 statement required by this section before the final date for
16 the withdrawal of candidates provided for in the Election Code
17 shall not have the candidate's name printed on the election
18 ballot.

19 H. For a state agency head, an official whose
20 appointment to a board or commission is subject to confirmation
21 by the senate or a member of the insurance nominating
22 committee, the filing of the financial disclosure statement
23 required by this section is a condition of entering upon and
24 continuing in state employment or holding an appointed
25 position."

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1 SECTION 56. Section 10-16A-4 NMSA 1978 (being Laws 1993,
2 Chapter 46, Section 42) is amended to read:

3 "10-16A-4. DISCLOSURES BY CERTAIN PUBLIC OFFICERS OR
4 EMPLOYEES OF STATE AGENCIES--CONDITION OF EMPLOYMENT.--

5 A. Every employee who is not otherwise required to
6 file a financial disclosure statement under the Financial
7 Disclosure Act and who has a financial interest that [~~he~~] the
8 employee believes or has reason to believe may be affected by
9 [~~his~~] the employee's official act or actions of the state
10 agency by which [~~he~~] the employee is employed shall disclose
11 the nature and extent of that interest. The disclosures shall
12 be made in writing to the [~~secretary of~~] state ethics
13 commission before entering state employment and during the
14 month of January every year thereafter.

15 B. Every public officer who is not otherwise
16 required to file a financial disclosure statement under the
17 Financial Disclosure Act and who has a financial interest that
18 [~~he~~] the public officer believes or has reason to believe may
19 be affected by [~~his~~] the public officer's official act or
20 actions of the board or commission to which [~~he~~] the public
21 officer is appointed shall disclose the nature and extent of
22 that interest. The disclosures shall be made in writing to the
23 [~~secretary of~~] state ethics commission before taking office and
24 during the month of January every year thereafter.

25 C. The information on the disclosures shall be made

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1 available by the [~~secretary of~~] state ethics commission for
2 inspection to any [~~citizen of this~~] resident of the state.

3 D. The filing of disclosures pursuant to this
4 section is a condition of entering upon and continuing in state
5 employment or, for persons subject to Subsection B of this
6 section, of holding public office."

7 SECTION 57. Section 10-16A-5 NMSA 1978 (being Laws 1993,
8 Chapter 46, Section 43) is amended to read:

9 "10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

10 A. The [~~secretary of~~] state ethics commission shall
11 advise and seek to educate all persons required to perform
12 duties under the Financial Disclosure Act of those duties.
13 This includes providing timely advance notice of the required
14 financial disclosure statement and preparing forms that are
15 clear and easy to complete.

16 B. The [~~secretary of~~] state ethics commission shall
17 seek first to ensure voluntary compliance with the provisions
18 of the Financial Disclosure Act. A person who violates that
19 act unintentionally or for good cause shall be given ten days'
20 notice to correct the matter before fines are imposed.
21 Referrals for civil enforcement of the Financial Disclosure Act
22 shall be pursued only after efforts to secure voluntary
23 compliance with that act have failed."

24 SECTION 58. Section 10-16A-6 NMSA 1978 (being Laws 1993,
25 Chapter 46, Section 44, as amended) is amended to read:

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1 "10-16A-6. INVESTIGATIONS--BINDING ARBITRATION--FINES--
2 ENFORCEMENT.--

3 A. The [~~secretary of~~] state ethics commission may
4 conduct thorough examinations of statements and initiate
5 investigations to determine whether the Financial Disclosure
6 Act has been violated. Any person who believes that act has
7 been violated may file a written complaint with the [~~secretary~~
8 ~~of state~~] commission. The [~~secretary of state~~] commission
9 shall adopt procedures for processing complaints and
10 notifications of violations.

11 B. If the [~~secretary of~~] state ethics commission
12 determines that a violation has occurred for which a penalty
13 should be imposed, the [~~secretary of state~~] commission shall so
14 notify the person charged and impose the penalty. If the
15 person charged disputes the [~~secretary of state's~~] commission's
16 determination, the person charged may request binding
17 arbitration.

18 C. The arbitration decision shall be decided by a
19 single arbitrator selected within ten days by the person
20 against whom the penalty has been imposed from a list of five
21 arbitrators provided by the [~~secretary of~~] state ethics
22 commission. No arbitrator may be a person subject to the
23 Financial Disclosure Act, Campaign Reporting Act or Lobbyist
24 Regulation Act. Arbitrators shall be considered to be
25 independent contractors, not public officers or employees, and

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1 shall not be paid per diem and mileage.

2 D. The arbitrator may take any action the
3 [~~secretary of~~] state ethics commission is authorized to take.
4 The arbitrator shall state the reasons for [~~his~~] the decision
5 in a written document that shall be a public record. The
6 decision shall be final and binding. The decision shall be
7 issued within thirty days of the conclusion of the hearing.
8 Unless otherwise provided for in this section, or by rule or
9 regulation adopted by the [~~secretary of state~~] commission, the
10 procedures for the arbitration shall be governed by the Uniform
11 Arbitration Act. No arbitrator shall be subject to liability
12 for actions taken pursuant to this section.

13 E. Any person who files a statement or report after
14 the deadline imposed by the Financial Disclosure Act or any
15 person who files a false or incomplete statement or report is
16 liable for and shall pay to the [~~secretary of~~] state ethics
17 commission, at or from the time initially required for the
18 filing, fifty dollars (\$50.00) per day for each regular working
19 day after the time required for the filing of the statement or
20 report until the complete report is filed, up to a maximum of
21 five thousand dollars (\$5,000).

22 F. The [~~secretary of~~] state ethics commission may
23 refer a matter to the attorney general or a district attorney
24 for a civil injunctive or other appropriate order or
25 enforcement."

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1 SECTION 59. Section 10-16A-8 NMSA 1978 (being Laws 1995,
2 Chapter 153, Section 25) is amended to read:

3 "10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--

4 A. If the [~~secretary of~~] state ethics commission
5 reasonably believes that a person committed, or is about to
6 commit, a violation of the Financial Disclosure Act, the
7 [~~secretary of state~~] commission shall refer the matter to the
8 attorney general or a district attorney for enforcement.

9 B. The attorney general or a district attorney may
10 institute a civil action in district court if a violation has
11 occurred or to prevent a violation of any provision of the
12 Financial Disclosure Act. Relief may include a permanent or
13 temporary injunction, a restraining order or any other
14 appropriate order, including an order for a civil penalty of
15 two hundred fifty dollars (\$250) for each violation not to
16 exceed five thousand dollars (\$5,000)."

17 SECTION 60. Section 10-16B-1 NMSA 1978 (being Laws 2007,
18 Chapter 226, Section 1) is amended to read:

19 "10-16B-1. SHORT TITLE.--[~~This act~~] Chapter 10, Article
20 16B NMSA 1978 may be cited as the "Gift Act"."

21 SECTION 61. Section 10-16B-3 NMSA 1978 (being Laws 2007,
22 Chapter 226, Section 3) is amended to read:

23 "10-16B-3. LIMITATION ON GIFTS.--

24 A. A state officer or employee or a candidate for
25 state office, or that person's family, shall not knowingly

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1 accept from a restricted donor, and a restricted donor shall
2 not knowingly donate to a state officer or employee or a
3 candidate for state office, or that person's family, a gift of
4 a market value greater than two hundred fifty dollars (\$250).

5 B. A lobbyist registered with the [~~secretary of~~
6 state ethics commission, the lobbyist's employer or a
7 government contractor shall not donate gifts of an aggregate
8 market value greater than one thousand dollars (\$1,000) in a
9 calendar year to any one state officer or employee or to any
10 one candidate for state office.

11 C. A state officer or employee shall not solicit
12 gifts for a charity from a business or corporation regulated
13 by the state agency for which the state officer or employee
14 works and shall not otherwise solicit donations for a charity
15 in such a manner that it appears that the purpose of the donor
16 in making the gift is to influence the state officer or
17 employee in the performance of an official duty."

18 SECTION 62. TEMPORARY PROVISION--TRANSFER OF PROPERTY,
19 CONTRACTS AND REFERENCES IN LAW AND RULES.--On January 1, 2017:

20 A. all functions, appropriations, money, records,
21 property, equipment and supplies of the office of the secretary
22 of state used in the administration of the following acts are
23 transferred to the state ethics commission:

- 24 (1) the Campaign Reporting Act;
25 (2) the Voter Action Act;

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- 1 (3) the Lobbyist Regulation Act;
- 2 (4) the Governmental Conduct Act;
- 3 (5) the Financial Disclosure Act; and
- 4 (6) the Gift Act;

5 B. all contracts, grants, agreements and other
6 obligations of the secretary of state relating to
7 administration of the acts listed in Subsection A of this
8 section are transferred to and binding on the state ethics
9 commission;

10 C. all references in law to the secretary of
11 state relating to administration of the acts listed in
12 Subsection A of this section shall be deemed to be references
13 to the state ethics commission; and

14 D. all rules of the secretary of state pertaining
15 to administration of the acts listed in Subsection A of this
16 section shall be considered rules of the state ethics
17 commission.

18 SECTION 63. SEVERABILITY.--If any part or application of
19 this act is held invalid, the remainder or its application to
20 other situations or persons shall not be affected.

21 SECTION 64. APPLICABILITY.--The provisions of the State
22 Ethics Commission Act apply to conduct that occurs on or after
23 January 1, 2017.

24 SECTION 65. EFFECTIVE DATE.--

25 A. The effective date of the provisions of Sections

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1 1 through 7, 12 through 16, 49 and 62 through 64 of this act is
2 July 1, 2016.

3 B. The effective date of the provisions of Sections
4 8 through 11, 17 through 48 and 50 through 61 of this act is
5 January 1, 2017.

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