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SENATE BILL 7

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2007**

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO ETHICS; PROHIBITING CONTRIBUTIONS TO ELECTED  
LEGISLATORS AND CERTIFIED CANDIDATES FOR THE LEGISLATURE;  
REQUIRING REGISTERED LOBBYISTS TO REPORT THEIR INCOMES;  
AUTHORIZING THE NEW MEXICO LEGISLATIVE COUNCIL TO PROVIDE YEAR-  
ROUND STAFF FOR ELECTED LEGISLATORS FOR DUTIES DIRECTLY RELATED  
TO A STATE LEGISLATOR'S OFFICE; PROVIDING FOR LEGISLATIVE  
SALARIES.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 9 of this act may be cited as the "Level Playing Field  
Act".

Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the  
Level Playing Field Act is to attempt to bring government  
closer to the governed by making elective office more

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1 attainable, prohibiting influence gifts to legislators and  
2 providing salary and staff for legislators.

3 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
4 Level Playing Field Act:

5 A. "certified legislative candidate" means a  
6 candidate for the state legislature whose name will be included  
7 on the general election ballot and who has been certified for  
8 funds available through the Voter Action Act;

9 B. "contribution" means a contribution as defined  
10 by the Campaign Reporting Act, or a gift, subscription, loan,  
11 advance or deposit of money or other thing of value, including  
12 the estimated value of an in-kind contribution, that is made or  
13 received for a political purpose, including payment of a debt  
14 incurred in an election campaign, but "contribution" does not  
15 include the value of services provided without compensation or  
16 unreimbursed travel or other personal expenses of individuals  
17 who volunteer a portion or all of their time on behalf of a  
18 candidate or political committee; the administrative or  
19 solicitation expenses of a political committee that are paid by  
20 an organization that sponsors the committee; or a certificate  
21 or plaque presented in recognition of service;

22 C. "does business with the state" means offering a  
23 product or service in response to a request for proposals,  
24 through the Procurement Code or through a contract with the  
25 state such that a person is entitled to remuneration or benefit

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1 from the state;

2 D. "fund" means the public election fund;

3 E. "lobbyist" means a person required to register  
4 under the Lobbyist Regulation Act; and

5 F. "person" means a person or entity.

6 Section 4. [NEW MATERIAL] LEGISLATOR SALARY.--Each member  
7 of the legislature shall receive annual salary compensation  
8 limited to no more than the equivalent of the annual federal  
9 poverty guidelines for a family of four.

10 Section 5. [NEW MATERIAL] STATE FUNDS FOR CERTIFIED  
11 LEGISLATIVE CANDIDATES.--Pursuant to the Voter Action Act, a  
12 certified legislative candidate is eligible for funds available  
13 pursuant to the Voter Action Act so long as the certified  
14 legislative candidate accepts no contribution from a person who  
15 does business with the state.

16 Section 6. [NEW MATERIAL] PROHIBITION OF GIFTS TO A  
17 LEGISLATOR OR CERTIFIED LEGISLATIVE CANDIDATE.--An elected  
18 legislator or a certified legislative candidate shall not  
19 receive a contribution at any time from a lobbyist.

20 Section 7. [NEW MATERIAL] LOBBYIST REPORTING.--A lobbyist  
21 shall annually report the lobbyist's compensation for services,  
22 including both salary and contract income paid by clients for  
23 lobbying services.

24 Section 8. [NEW MATERIAL] EXPENSES OF LEGISLATORS  
25 DIRECTLY RELATED TO THE DUTIES OF THEIR OFFICE--DISTRIBUTION

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1 REQUIRED--YEAR-ROUND LEGISLATIVE STAFF.--

2 A. Pursuant to Article 4, Section 10 of the  
3 constitution of New Mexico, each member of the legislature  
4 shall receive an annual distribution for expenses directly  
5 related to the duties of the member's office in an amount equal  
6 to fifteen percent of the annual salary provided for justices  
7 of the New Mexico supreme court.

8 B. Such funds shall be used by a legislator for  
9 staffing a year-round office for clerical, research and  
10 constituent services duties directly related to the member's  
11 office.

12 C. The New Mexico legislative council shall adopt a  
13 policy to carry out the provisions of this section.

14 Section 9. [NEW MATERIAL] NO ENRICHMENT OF CURRENT  
15 LEGISLATORS.--A legislator shall not receive a salary unless  
16 the legislator is duly elected after passage of a  
17 constitutional amendment authorizing legislative salaries. A  
18 legislator appointed to serve the unexpired term of an elected  
19 legislator shall not become eligible for a salary until one  
20 year after expiration of the term of the elected legislator or  
21 until being duly elected.

22 Section 10. Section 1-19-29.1 NMSA 1978 (being Laws 1993,  
23 Chapter 46, Section 6, as amended) is amended to read:

24 "1-19-29.1. CAMPAIGN FUNDS--LIMITATION ON USE.--

25 A. It is unlawful for [~~any~~] a candidate or [~~his~~]

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1 the candidate's agent to make an expenditure of contributions  
2 received, except for the following purposes or as otherwise  
3 provided in this section:

4 (1) expenditures of the campaign;

5 (2) expenditures of legislators that are  
6 reasonably related to performing the duties of the office held,  
7 including mail, telephone and travel expenditures to serve  
8 constituents, but excluding personal and legislative session  
9 living expenses; provided that a legislator shall accept no  
10 contribution from a person who does business with the state of  
11 New Mexico;

12 (3) donations to the state general fund;

13 (4) donations to an organization to which a  
14 federal income tax deduction would be permitted under  
15 Subparagraph (A) of Paragraph (1) of Subsection (b) of Section  
16 170 of the Internal Revenue Code of 1986, as amended;

17 (5) expenditures to eliminate the campaign  
18 debt of the candidate for the office sought or expenditures  
19 incurred by the candidate when seeking election to another  
20 public office covered by the Campaign Reporting Act;

21 (6) donations to a political party or to  
22 another candidate seeking election to public office; or

23 (7) disbursements to return unused funds pro  
24 rata to the contributors if no campaign debt exists.

25 B. A judge subject to a nonpartisan retention

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1 election or a candidate for judicial office shall solicit or  
2 accept campaign funds and return unused funds in accordance  
3 with the provisions of the Code of Judicial Conduct.

4 C. No contributions solicited for or received in a  
5 federal election campaign may be used in a state election  
6 campaign."

7 Section 11. Section 1-19A-4 NMSA 1978 (being Laws 2003,  
8 Chapter 14, Section 4) is amended to read:

9 "1-19A-4. QUALIFYING CONTRIBUTIONS.--Applicant candidates  
10 shall obtain qualifying contributions as follows:

11 A. the applicant candidate shall obtain qualifying  
12 contributions from that number of registered voters that is  
13 equal to at least [~~one-quarter~~] one-fourth percent of the total  
14 vote;

15 B. applicant candidates may accept qualifying  
16 contributions from persons who become registered within the  
17 statutory time frame that would enable that person to vote in  
18 the primary election; provided that a certified legislative  
19 candidate as defined in the Level Playing Field Act shall not  
20 accept any contribution from a person who does business with  
21 the state of New Mexico;

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

25 D. no payment, gift or anything of value shall be

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1 given in exchange for a qualifying contribution."

2 Section 12. Section 1-19A-5 NMSA 1978 (being Laws 2003,  
3 Chapter 14, Section 5) is amended to read:

4 "1-19A-5. SEED MONEY.--

5 A. An applicant candidate may collect seed money  
6 from individual donors and political action committees in  
7 amounts of no more than one hundred dollars (\$100) per donor or  
8 committee; provided that a certified legislative candidate as  
9 defined in the Level Playing Field Act shall not accept a  
10 contribution from a person who does business with the state of  
11 New Mexico. An applicant candidate may contribute an amount of  
12 seed money from [~~his~~] the applicant candidate's own funds up to  
13 the limits specified in Subsection H of this section.

14 B. An applicant candidate may collect and spend  
15 seed money during the sixty days immediately preceding the  
16 qualifying period and throughout the qualifying period.

17 C. An applicant candidate may not collect seed  
18 money from a corporation, association or partnership formed  
19 under state law or from labor organizations.

20 D. An applicant candidate may not collect or spend  
21 seed money for any purpose after certification and before the  
22 end of the election cycle for which the candidate was  
23 certified, but after the election cycle may carry forward to  
24 the next election cycle any unspent seed money to be used as  
25 seed money.

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1 E. If a certified candidate is defeated or is  
2 elected and decides not to run again as an applicant candidate,  
3 any unspent seed money shall be forfeited to the fund.

4 F. After becoming an applicant candidate and prior  
5 to certification, an applicant candidate shall not accept  
6 contributions, except for seed money or qualifying  
7 contributions.

8 G. An incumbent elected prior to 2006 who was not  
9 an applicant candidate when elected but [~~declares his~~] who  
10 files a declaration of intent to become an applicant candidate  
11 in accordance with the Voter Action Act may transfer from [~~his~~]  
12 the applicant candidate's campaign fund for use as seed money  
13 up to the limits for contributions and expenditures specified  
14 in Subsection H of this section.

15 H. An applicant candidate shall limit seed money  
16 contributions and expenditures to five thousand dollars  
17 (\$5,000)."

18 Section 13. Section 2-3-12 NMSA 1978 (being Laws 1951,  
19 Chapter 182, Section 6, as amended) is amended to read:

20 "2-3-12. DUTIES OF DIRECTOR--ADDITIONAL EMPLOYEES.--

21 A. The director of the legislative council service  
22 shall recommend to the New Mexico legislative council the  
23 appointment of such technical, clerical and stenographic  
24 assistants as may be necessary to carry out the provisions of  
25 [~~this act~~] Chapter 2, Article 3 NMSA 1978, and the legislative

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1 council, upon concurring in such appointments, shall fix the  
2 compensation of each employee within the appropriations made by  
3 the legislature for the use of the legislative council. [~~Such~~]  
4 Employees shall be appointed without regard to party  
5 affiliation and solely on ground of fitness to perform the  
6 duties of the position for which they are hired. [~~For a period~~  
7 ~~commencing approximately one month prior to each session and~~  
8 ~~until approximately fifteen days after the final adjournment~~  
9 ~~thereof, at any regular or special session, the director may~~  
10 ~~employ, subject to the approval of the legislative council, at~~  
11 ~~a compensation to be fixed by the council within its budget~~  
12 ~~allowance, such extra stenographic and emergency assistants,~~  
13 ~~including expert legal draftsmen qualified to aid the~~  
14 ~~legislators in the preparation and drafting of bills for~~  
15 ~~introduction into the legislature, as may be necessary to~~  
16 ~~expeditiously handle the work of the council service~~  
17 ~~immediately prior to, during and immediately after the~~  
18 ~~legislative sessions.]~~

19 B. The director of the legislative council service  
20 shall receive application for and recommend to the New Mexico  
21 legislative council the appointment of nonpolitical personnel  
22 to serve for each elected legislator as staff to carry out the  
23 duties of the legislative office."

24 Section 14. Section 2-11-3 NMSA 1978 (being Laws 1977,  
25 Chapter 261, Section 3, as amended) is amended to read:

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1 "2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--  
2 MODIFICATION TO STATEMENT.--

3 A. In the month of January prior to each regular  
4 session or before any service covered by the Lobbyist  
5 Regulation Act commences, any individual who is initially  
6 employed or retained as a lobbyist shall register with the  
7 secretary of state by paying an annual filing fee of twenty-  
8 five dollars (\$25.00) for each of the lobbyist's employers and  
9 by filing a single registration statement under oath on a  
10 prescribed form showing:

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

13 (2) the name and address of each of the  
14 lobbyist's employers.

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

24 C. 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 [~~him~~] the lobbyist to lobby on  
6 the 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 [~~his~~] the lobbyist's employer, who  
11 will have custody of the accounts, bills, receipts, books,  
12 papers and documents required to be kept under the provisions  
13 of the Lobbyist Regulation Act; and

14 (5) the compensation to be paid the lobbyist  
15 for lobbying services, whether on contract or through salary.

16 D. For each succeeding year that an individual is  
17 employed or retained as a lobbyist by the same employer, and  
18 for whom all the information disclosed in the initial  
19 registration statement remains substantially the same, the  
20 lobbyist shall file a simple annual registration renewal in  
21 January and pay the twenty-five-dollar (\$25.00) filing fee for  
22 each of the lobbyist's employers together with a short,  
23 abbreviated prescribed form for renewal.

24 E. Whenever there is a modification of the facts  
25 required to be set forth by this section or there is a 12

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

8 Section 15. Section 2-11-6 NMSA 1978 (being Laws 1977,  
9 Chapter 261, Section 6, as amended) is amended to read:

10 "2-11-6. EXPENDITURE AND COMPENSATION REPORT TO BE  
11 FILED--CONTENTS--REPORTING PERIODS.--

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

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1 (1) the cumulative total of the expenditures  
2 made or incurred, separated into categories that identify the  
3 total separate amounts spent on:

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 (4) in a report filed by a lobbyist, the  
20 compensation received by the lobbyist from each of the  
21 lobbyist's employers or clients; and

22 (5) in a report filed by a lobbyist's employer  
23 or client, the total compensation paid each lobbyist by the  
24 employer for lobbying services.

25 B. If the expenditure and compensation report is

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1 filed electronically, the report shall be electronically  
2 authenticated by the lobbyist or the lobbyist's employer using  
3 an electronic signature as prescribed by the secretary of state  
4 in conformance with the Electronic Authentication of Documents  
5 Act and the Uniform Electronic Transactions Act. For the  
6 purposes of the Lobbyist Regulation Act, a report that is  
7 electronically authenticated in accordance with the provisions  
8 of this subsection shall be deemed to have been subscribed and  
9 sworn to by the lobbyist or the lobbyist's employer that is  
10 required to file the report.

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

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1 body invited and total expenses incurred shall be reported.

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

4 (1) by January 15 for all compensation  
5 received and all expenditures and political contributions made  
6 or incurred during the preceding year and not previously  
7 reported;

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

11 (3) by May 1 for all compensation received and  
12 all expenditures and political contributions made or incurred  
13 through April 25 of the current year and not previously  
14 reported.

15 E. A lobbyist's personal living expenses and the  
16 expenses incidental to establishing and maintaining an office  
17 in connection with lobbying activities [~~or compensation paid to~~  
18 ~~a lobbyist by a lobbyist's employer~~] need not be reported.

19 F. A lobbyist or lobbyist's employer shall obtain  
20 and preserve all records, accounts, bills, receipts, books,  
21 papers and documents necessary to substantiate the financial  
22 statements required to be made under the Lobbyist Regulation  
23 Act for a period of two years from the date of filing of the  
24 report containing such items. When the lobbyist is required  
25 under the terms of the lobbyist's employment to turn over any

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1 such records to the lobbyist's employer, responsibility for the  
2 preservation of them as required by this section and the filing  
3 of reports required by this section shall rest with the  
4 employer. Such records shall be made available to the  
5 secretary of state or attorney general upon written request.

6 G. ~~[Any]~~ A lobbyist's employer who also engages in  
7 lobbying shall comply with the provisions of the Lobbyist  
8 Regulation Act.

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

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1 names, addresses and occupations of the contributors, to the  
2 secretary of state on a prescribed form."

3 Section 16. Section 2-11-7 NMSA 1978 (being Laws 1977,  
4 Chapter 261, Section 7, as amended) is amended to read:

5 "2-11-7. EACH REGISTRATION [AND EXPENDITURE] STATEMENT  
6 AND EACH EXPENDITURE AND COMPENSATION REPORT--PRESERVATION AS  
7 PUBLIC RECORD.--Each registration [~~and expenditure~~] statement  
8 and each expenditure and compensation report as required by the  
9 Lobbyist Regulation Act shall be preserved by the secretary of  
10 state for a period of two years from the date of filing as a  
11 public record, open to public inspection at any reasonable  
12 time. Unless an action or prosecution is pending that requires  
13 preserving the report, it may be destroyed two years after the  
14 date of filing."

15 Section 17. Section 10-16-4.1 NMSA 1978 (being Laws 1993,  
16 Chapter 46, Section 38) is amended to read:

17 "10-16-4.1. HONORARIA PROHIBITED.--

18 A. No [~~legislator~~] public officer or employee may  
19 request or receive an honorarium for a speech or service  
20 rendered that relates to the performance of public duties. For  
21 the purposes of this [~~section~~] subsection, "honorarium" means  
22 payment of money, or any other thing of value in excess of one  
23 hundred dollars (\$100), but does not include reasonable  
24 reimbursement for meals, lodging or actual travel expenses  
25 incurred in making the speech or rendering the service, or

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1 payment or compensation for services rendered in the normal  
2 course of a private business pursuit.

3 B. No legislator may request or receive an  
4 honorarium for a speaker service rendered that relates to the  
5 performance of public duties. For purposes of this subsection,  
6 "honorarium" means payment of money or any other thing of value  
7 and includes reimbursement for meals, lodging, travel expenses,  
8 payment or compensation for services rendered in the normal  
9 course of a private business pursuit."

10 Section 18. REPEAL.--Section 2-1-3 NMSA 1978 (being Laws  
11 1943, Chapter 18, Section 1, as amended) is repealed.

12 Section 19. CONTINGENT EFFECTIVE DATE.--The provisions of  
13 Sections 4 and 5 of the Level Playing Field Act shall become  
14 effective upon certification by the secretary of state that the  
15 constitution of New Mexico has been amended as proposed by a  
16 joint resolution of the first session of the forty-eighth  
17 legislature entitled "PROPOSING AN AMENDMENT TO ARTICLE 4,  
18 SECTION 10 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE FOR  
19 LEGISLATIVE SALARIES".

20 Section 20. CONTINGENT EFFECTIVE DATE.--The provisions of  
21 Section 8 of the Level Playing Field Act shall become effective  
22 upon certification by the secretary of state that the  
23 constitution of New Mexico has been amended as proposed by a  
24 joint resolution of the first session of the forty-eighth  
25 legislature entitled "A JOINT RESOLUTION PROPOSING AN AMENDMENT

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1 TO ARTICLE 4, SECTION 10 OF THE CONSTITUTION OF NEW MEXICO TO  
2 PROVIDE AN ANNUAL DISTRIBUTION TO MEMBERS OF THE LEGISLATURE  
3 FOR EXPENSES DIRECTLY RELATED TO THE DUTIES OF THEIR OFFICE IN  
4 AN AMOUNT NOT TO EXCEED FIFTEEN PERCENT OF THE ANNUAL SALARY  
5 PROVIDED FOR JUSTICES OF THE NEW MEXICO SUPREME COURT".

6 Section 21. EFFECTIVE DATE.--The effective date of the  
7 provisions of Sections 1 through 3, 6, 7 and 9 through 17 of  
8 this act is July 1, 2009.

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