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HOUSE BILL 383

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

David L. Doyle

AN ACT

RELATING TO GOVERNMENTAL CONDUCT; SPECIFYING THE CRIMINAL ACTS THAT QUALIFY AS PUBLIC CORRUPTION OFFENSES; CREATING A PUBLIC CORRUPTION INVESTIGATIONS AND PROSECUTION DIVISION IN THE DEPARTMENT OF PUBLIC SAFETY; AMENDING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 9-19-2 NMSA 1978 (being Laws 1987, Chapter 254, Section 2, as amended) is amended to read:

"9-19-2. DEFINITIONS.--As used in the Department of Public Safety Act:

A. "department" means the department of public safety; ~~and~~

B. "public corruption offense" means:

(1) violating the ethical principles of public

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1 service, as provided in Subsection D of Section 10-16-3 NMSA
2 1978;

3 (2) taking an official act for personal
4 financial interest, as provided in Section 10-16-4 NMSA 1978;

5 (3) paying or receiving public money for
6 services not rendered, as provided in Section 30-23-2 NMSA
7 1978;

8 (4) making or permitting false public voucher,
9 as provided in Section 30-23-3 NMSA 1978;

10 (5) committing unlawful interest in a public
11 contract, where the value received is more than fifty dollars
12 (\$50.00), as provided in Section 30-23-6 NMSA 1978;

13 (6) committing bribery of public officer or
14 public employee, as provided in Section 30-24-1 NMSA 1978;

15 (7) demanding or receiving bribe by public
16 officer or employee, as provided in Section 30-24-2 NMSA 1978;

17 (8) tampering with public records, as provided
18 in Section 30-26-1 NMSA 1978;

19 (9) soliciting or receiving illegal kickback,
20 as provided in Section 30-41-1 NMSA 1978; and

21 (10) offering or paying illegal kickback, as
22 provided in Section 30-41-2 NMSA 1978; and

23 ~~[B-]~~ C. "secretary" means the secretary of public
24 safety."

25 SECTION 2. Section 9-19-4 NMSA 1978 (being Laws 1987,

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1 Chapter 254, Section 4, as amended) is amended to read:

2 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the
3 executive branch the "department of public safety". The
4 department shall be a cabinet department and shall consist of,
5 but not be limited to, [~~five~~] six program divisions, an
6 administrative division and an information technology division
7 as follows:

- 8 A. the New Mexico state police division;
9 B. the special investigations division;
10 C. the training and recruiting division;
11 D. the technical support division;
12 E. the administrative services division;
13 F. the motor transportation division; [~~and~~]
14 G. the information technology division; and
15 H. the public corruption investigations and
16 prosecution division."

17 SECTION 3. Section 9-19-7 NMSA 1978 (being Laws 1987,
18 Chapter 254, Section 7, as amended) is amended to read:

19 "9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND
20 DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

- 21 A. The organizational units of the department and
22 the officers of those units specified by law shall have all the
23 powers and duties enumerated in the specific laws involved.
24 However, the carrying out of those powers and duties shall be
25 subject to the direction and supervision of the secretary, who

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1 shall retain the final decision-making authority and
2 responsibility for the administration of any such laws as
3 provided in Subsection B of Section 9-19-6 NMSA 1978. The
4 department shall have access to all records, data and
5 information of other state departments, agencies and
6 institutions, including its own organizational units, not
7 specifically held confidential by law.

8 B. The New Mexico state police division shall
9 consist of the commissioned officers and civilian personnel,
10 including all communications equipment operators, of the New
11 Mexico state police uniform division and the commissioned
12 officers and civilian personnel of the New Mexico state police
13 criminal division and such other personnel as may be assigned
14 by the secretary or by the governor pursuant to an executive
15 order as authorized in the Department of Public Safety Act.

16 C. The special investigations division shall
17 consist of the enforcement personnel of the department of
18 alcoholic beverage control and such other personnel as may be
19 assigned by the secretary or by the governor pursuant to an
20 executive order as authorized in the Department of Public
21 Safety Act. The division is responsible for the enforcement of
22 the New Mexico Bingo and Raffle Act and the Liquor Control Act.

23 D. The technical support division shall consist of
24 functions such as communications, crime laboratory and records.

25 E. The training and recruiting division shall

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1 consist of the personnel of the New Mexico law enforcement
2 academy, the New Mexico state police training division and all
3 other training personnel and functions of the department as the
4 secretary may transfer to this division.

5 F. The administrative services division shall
6 consist of the administrative services and services divisions
7 of the New Mexico state police and those administrative support
8 personnel of the other existing departments, divisions or
9 offices as the secretary deems necessary.

10 G. The public corruption investigations and
11 prosecution division shall consist of functions relating to the
12 investigation and prosecution of public corruption offenses in
13 the state. The division shall have the authority to issue
14 subpoenas for use in any pending cause in any administrative
15 proceeding or in any of the courts of the state, and the
16 subpoenas issued by the division may be enforced through any
17 district court of the state. The division may perform other
18 such duties relating to the investigation and prosecution of
19 public corruption as may be assigned by the governor or the
20 secretary."