

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 408

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

INTRODUCED BY

Mary Helen Garcia

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 STATE OFFICIALS, STATE EMPLOYEES, GOVERNMENT  
CONTRACTORS, CERTAIN SCHOOL EMPLOYEES AND OFFICIALS AND  
LOBBYISTS FOR ETHICS VIOLATIONS; PROVIDING FOR INVESTIGATIONS  
AND HEARINGS; GRANTING SUBPOENA POWERS; REQUIRING  
CONFIDENTIALITY; PROHIBITING RETALIATION; PROVIDING PENALTIES;  
RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN  
LAWS 2009.

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

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

2 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
3 through 16 of this act may be cited as the "State Ethics  
4 Commission Act".

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

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

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

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

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

17 E. "director" means the executive director of the  
18 commission;

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

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

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

5           H. "legislative body" means the house of  
6 representatives or the senate;

7           I. "lobbying" means attempting to influence:

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

13                 (2) an official action;

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

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

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

.183217.2

underscoring material = new  
~~[bracketed material]~~ = delete

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

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

13 (5) a legislator or legislative staff member;

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

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

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

.183217.2

underscored material = new  
[bracketed material] = delete

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

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

6           M. "respondent" means a state official, state  
7 employee, government contractor or lobbyist who is the subject  
8 of a complaint filed with or by the commission;

9           N. "state agency" means any department, commission,  
10 council, board, committee, agency or institution of the  
11 executive or legislative branch of government of the state or  
12 any instrumentality of the state, including the New Mexico  
13 mortgage finance authority, the New Mexico finance authority,  
14 the New Mexico exposition center authority, the New Mexico  
15 hospital equipment loan council and the New Mexico renewable  
16 energy transmission authority;

17           O. "state employee" means an employee of a state  
18 agency; and

19           P. "state official" means a person elected to an  
20 office of the executive or legislative branch of the state or a  
21 person appointed to a state agency; as of January 1, 2016,  
22 "state official" includes a local school board member, a local  
23 superintendent of a school district and a member of the  
24 governing authority of a charter school.

25           **SECTION 3. [NEW MATERIAL] STATE ETHICS COMMISSION**

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1 CREATED--MEMBERSHIP--TERMS--REMOVAL.--

2 A. The "state ethics commission" is created as an  
3 adjunct agency of the executive branch under the direction of  
4 seven commissioners, appointed as follows:

5 (1) one commissioner appointed by the speaker  
6 of the house of representatives;

7 (2) one commissioner appointed by the minority  
8 floor leader of the house of representatives;

9 (3) one commissioner appointed by the majority  
10 floor leader of the senate;

11 (4) one commissioner appointed by the minority  
12 floor leader of the senate;

13 (5) two commissioners appointed by the  
14 governor, one of whom shall be a member of the Democratic party  
15 and one of whom shall be a member of the Republican party; and

16 (6) one commissioner appointed by the chief  
17 justice of the supreme court, who shall be a retired judge and  
18 who shall chair the commission.

19 B. The appointing authorities shall give due regard  
20 to geographic representation and to the cultural diversity of  
21 the state.

22 C. Each appointing authority shall file letters of  
23 appointment with the secretary of state.

24 D. Commissioners shall be appointed for staggered  
25 terms of four years beginning July 1, 2011. The initial

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1 commissioners shall draw lots to determine which two  
2 commissioners serve an initial term of two years, which two  
3 commissioners serve an initial term of three years and which  
4 three commissioners serve an initial term of four years;  
5 thereafter, all commissioners shall serve four-year terms.  
6 Members shall serve until their successors are appointed and  
7 qualified.

8 E. A person shall not serve as a commissioner for  
9 more than two consecutive terms. A vacancy on the commission  
10 shall be filled by appointment by the original appointing  
11 authority for the remainder of the unexpired term.

12 F. The commission shall meet as necessary to carry  
13 out its duties pursuant to the State Ethics Commission Act.  
14 Commissioners are entitled to receive per diem and mileage as  
15 provided in the Per Diem and Mileage Act and shall receive no  
16 other compensation, perquisite or allowance.

17 G. Four commissioners that include at least two  
18 Democrats and two Republicans constitute a quorum for the  
19 transaction of business. No action shall be taken by the  
20 commission unless at least four members, including at least two  
21 Democrats and two Republicans, concur.

22 H. A commissioner may be removed only for  
23 incompetence, neglect of duty or malfeasance in office. A  
24 proceeding for the removal of a commissioner may be commenced  
25 by the commission or by the attorney general upon the request

.183217.2

underscored material = new  
[bracketed material] = delete

1 of the commission. The New Mexico supreme court has exclusive  
2 jurisdiction over proceedings to remove commissioners, and its  
3 decision shall be final. A commissioner shall be given notice  
4 of hearing and an opportunity to be heard before the  
5 commissioner is removed.

6 SECTION 4. [NEW MATERIAL] COMMISSIONERS--QUALIFICATIONS--  
7 LIMITATIONS.--

8 A. To qualify for appointment to the commission, a  
9 person shall:

- 10 (1) be a resident of New Mexico; and
- 11 (2) have been a member of the same political  
12 party for at least three years prior to appointment or shall  
13 not have been a member of any political party for at least  
14 three years prior to appointment.

15 B. Before entering upon the duties of the office of  
16 commissioner, each commissioner shall review the State Ethics  
17 Commission Act and other laws and rules pertaining to the  
18 commission's responsibilities and to ethics and governmental  
19 conduct in New Mexico. Each commissioner shall take the oath  
20 of office as provided in Article 20, Section 1 of the  
21 constitution of New Mexico.

22 C. During a commissioner's tenure, a commissioner  
23 shall not:

- 24 (1) seek or hold an elective public office, an  
25 appointed public position or an office in a political party; or



underscored material = new  
[bracketed material] = delete

1 (2) be a state employee, government contractor  
2 or lobbyist.

3 D. A commissioner who changes political party  
4 affiliation or violates the provisions of Subsection C of this  
5 section is deemed to have resigned from the commission.

6 E. For a period of one calendar year following a  
7 commissioner's tenure or following the resignation or removal  
8 of a commissioner, the commissioner shall not:

9 (1) represent a respondent, unless appearing  
10 on the commissioner's own behalf; or

11 (2) accept employment or otherwise provide  
12 services to a respondent unless the commissioner accepted  
13 employment or provided services prior to the filing of a  
14 complaint against the respondent.

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

17 A. The commission shall:

18 (1) receive and investigate complaints  
19 alleging ethics violations against state officials, state  
20 employees, government contractors and lobbyists;

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

23 (3) beginning on January 1, 2012, administer  
24 the provisions of the following acts:

25 (a) the Campaign Reporting Act;

.183217.2

underscored material = new  
~~[bracketed material] = delete~~

- 1 (b) the Voter Action Act;
- 2 (c) the Lobbyist Regulation Act;
- 3 (d) the Governmental Conduct Act;
- 4 (e) the Financial Disclosure Act; and
- 5 (f) the Gift Act;

6 (4) develop, adopt and promulgate the rules  
7 necessary for it to implement and administer the provisions of  
8 the State Ethics Commission Act;

9 (5) compile, index, maintain and provide  
10 public access to all advisory opinions and reports required to  
11 be made public pursuant to the State Ethics Commission Act;

12 (6) draft a proposed code of ethics for state  
13 officials and state employees and submit the proposed code to  
14 each elected state official and state agency for adoption;

15 (7) employ an executive director, who shall be  
16 an attorney; and

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

21 B. The commission may:

22 (1) initiate complaints alleging ethics  
23 violations against state officials, state employees, government  
24 contractors and lobbyists;

25 (2) petition a district court to issue

underscored material = new  
[bracketed material] = delete

1 subpoenas under seal requiring the attendance of witnesses and  
2 the production of books, records, documents or other evidence  
3 relevant or material to an investigation;

4 (3) issue advisory opinions to state  
5 officials, state employees, government contractors and  
6 lobbyists in accordance with the provisions of the State Ethics  
7 Commission Act;

8 (4) compile, adopt, publish and make available  
9 to all state officials, state employees, government contractors  
10 and lobbyists an ethics guide that clearly and plainly explains  
11 the ethics requirements set forth in state law, including those  
12 that relate to conducting business with the state; and

13 (5) offer annual ethics training to state  
14 officials, state employees, government contractors, lobbyists  
15 and other interested persons.

16 SECTION 6. [NEW MATERIAL] EXECUTIVE DIRECTOR--  
17 APPOINTMENT--DUTIES AND POWERS.--

18 A. The commission shall appoint an executive  
19 director who shall be knowledgeable about state ethics laws and  
20 who shall be appointed without reference to party affiliation  
21 and solely on the grounds of fitness to perform the duties of  
22 the office. The director shall hold office from the date of  
23 appointment until such time as the director is removed by the  
24 commission.

25 B. The director shall:

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

- 1                   (1) take the oath of office required by  
2 Article 20, Section 1 of the constitution of New Mexico;  
3                   (2) perform investigations on behalf of the  
4 commission;  
5                   (3) bring complaints and investigation results  
6 before the commission for consideration;  
7                   (4) prepare an annual budget for the  
8 commission and submit it to the commission for approval;  
9                   (5) make recommendations to the commission of  
10 proposed rules or legislative changes needed to provide better  
11 administration of the State Ethics Commission Act; and  
12                   (6) perform other duties as assigned by the  
13 commission.

14                   C. The director may:

- 15                   (1) hire a general counsel for the commission  
16 and additional personnel as may be necessary to carry out the  
17 duties of the commission;  
18                   (2) enter into contracts and agreements on  
19 behalf of the commission; and  
20                   (3) administer oaths and take depositions  
21 subject to the Rules of Civil Procedure for the District  
22 Courts.

23                   D. For a period of one calendar year immediately  
24 following the director's employment with the commission, the  
25 director shall not:

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

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

3 (2) accept employment or otherwise provide  
4 services to a respondent, unless the director accepted  
5 employment or provided services prior to the filing of a  
6 complaint against the respondent.

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

8 A. A commissioner shall recuse from and not  
9 participate in a commission proceeding in which the  
10 commissioner has a conflict of interest. The commissioner may  
11 state the reason for the recusal.

12 B. If the propriety of a commissioner's  
13 participation in a particular matter is questioned on the  
14 grounds that the commissioner has a conflict of interest, the  
15 commission may disqualify that commissioner from participation  
16 in a commission proceeding.

17 C. A recused or disqualified commissioner shall not  
18 participate in any proceeding related to the matter from which  
19 the commissioner is recused or disqualified, and the  
20 commissioner shall be excused from that portion of a meeting at  
21 which the matter is discussed.

22 D. If two or more commissioners have recused  
23 themselves or are disqualified from participating in a  
24 proceeding so that there is no longer a quorum, the remaining  
25 commissioners shall appoint temporary commissioners to

.183217.2

underscoring material = new  
[bracketed material] = delete

1 participate in that proceeding. Appointments of temporary  
2 commissioners shall be made by the remaining commissioners in  
3 accordance with the political party affiliation requirements  
4 and the qualifications of Sections 3 and 4 of the State Ethics  
5 Commission Act.

6 E. The commission shall promulgate rules for the  
7 recusal and disqualification of members and for the appointment  
8 of temporary commissioners.

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

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

12 (1) be requested in writing by a state  
13 official, state employee, government contractor or lobbyist;

14 (2) identify a specific set of circumstances  
15 involving an ethics issue;

16 (3) be issued within sixty days of receipt of  
17 the request unless the commission notifies the requester of a  
18 delay in issuance and continues to notify the requester every  
19 thirty days until the advisory opinion is issued; and

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

22 B. A request for an advisory opinion shall be  
23 confidential and not subject to the provisions of the  
24 Inspection of Public Records Act.

25 C. Unless amended or revoked, an advisory opinion

underscored material = new  
[bracketed material] = delete

1 shall be binding on the commission in any subsequent commission  
2 proceedings concerning a person who acted in good faith and in  
3 reasonable reliance on the advisory opinion.

4 SECTION 9. [NEW MATERIAL] COMPLAINTS--INVESTIGATIONS--  
5 SUBPOENAS.--

6 A. A complaint of an alleged ethics violation  
7 committed by a state official, state employee, government  
8 contractor or lobbyist may be:

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

11 (2) initiated by the commission upon receipt  
12 of evidence deemed sufficient by the commission.

13 B. The complainant shall set forth in detail the  
14 specific charges against the state official, state employee,  
15 government contractor or lobbyist and the factual allegations  
16 that support the charges and shall sign the complaint under  
17 penalty of false statement. The complainant shall submit any  
18 evidence the complainant has that supports the complaint.  
19 Evidence may include documents, records and names of witnesses.  
20 The commission shall prescribe the forms on which complaints  
21 are to be filed. The complaint form shall include a statement  
22 above the signature line that provides the following:

23 "The complainant agrees to be bound by  
24 the confidentiality rules of the State  
25 Ethics Commission and other provisions of

underscoring material = new  
~~[bracketed material] = delete~~

1 the State Ethics Commission Act.".

2 C. The chair of the commission shall sign a  
3 complaint initiated by the commission, and the complaint shall  
4 set forth in detail the specific charges against the state  
5 official, state employee, government contractor or lobbyist and  
6 the factual allegations that support the charges.

7 D. The director shall promptly bring all complaints  
8 before the commission and make recommendations to the  
9 commission as to whether the conduct alleged in a complaint is  
10 within the jurisdiction of the commission and warrants  
11 investigation.

12 E. The commission shall promptly dismiss complaints  
13 that are frivolous, unfounded or outside the jurisdiction of  
14 the commission. If the commission dismisses a complaint  
15 pursuant to this subsection, the director shall promptly notify  
16 the complainant and the respondent.

17 F. If the commission decides to proceed with an  
18 investigation, the director shall investigate the complaint.  
19 The director shall promptly notify the respondent that a  
20 complaint has been filed and is being investigated and shall  
21 notify the respondent of the specific allegations in the  
22 complaint and the specific ethics violations implicated by the  
23 complaint.

24 G. As part of an investigation, the director may  
25 administer oaths, interview witnesses and examine books,

.183217.2



underscoring material = new  
~~[bracketed material] = delete~~

1 records, documents and other evidence reasonably related to the  
2 complaint. If the director determines that a subpoena is  
3 necessary to obtain the testimony of any person or the  
4 production of books, records, documents or other evidence, the  
5 director shall ask the commission to petition a district court  
6 to issue a subpoena under seal. The commission may petition a  
7 district court, under seal, to subpoena witnesses, compel their  
8 attendance and examine them under oath or affirmation and to  
9 require the production of any books, records, documents or  
10 other evidence that it deems relevant or material to an  
11 investigation. Any challenge to a subpoena shall be heard by  
12 the district court in a confidential proceeding. If a person  
13 refuses to comply with a subpoena, the district court shall  
14 compel compliance.

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

.183217.2

underscored material = new  
[bracketed material] = delete

1           SECTION 10.   ~~[NEW MATERIAL]~~ STATUS OF INVESTIGATION--TIME  
2   LIMITATIONS.--

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

13          B.   Upon dismissal or a decision to continue an  
14   investigation of a complaint, the commission shall notify the  
15   complainant and respondent in writing of its action.  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 and  
22   complainant.  The director shall provide the respondent with  
23   reasonable written notice of the date, time and place of the  
24   commission hearing.

25          B.   At the hearing, the commission has the power to

1 administer oaths. The respondent has the right to be  
2 represented by counsel and to present evidence and testimony  
3 and examine and cross-examine witnesses. The respondent shall  
4 be afforded due process at the hearing.

5 C. After hearing and consideration of all the  
6 evidence, if the commission finds by clear and convincing  
7 evidence that the respondent's conduct constituted an ethics  
8 violation, the commission shall issue a written report that  
9 shall include findings of fact and conclusions of law. The  
10 written report may include a public reprimand or censure or  
11 recommendations for disciplinary action against the respondent.  
12 The commission shall publicly disclose the written report and  
13 provide it, along with all evidence collected during its  
14 investigation, to the respondent, the attorney general and the:

- 15 (1) appropriate legislative body if the  
16 respondent is a member of the legislature;
- 17 (2) house of representatives if the respondent  
18 is a state official elected to an office of the executive  
19 branch;
- 20 (3) respondent's appointing authority if the  
21 respondent is an appointed state official;
- 22 (4) appropriate state agency if the respondent  
23 is a state employee;
- 24 (5) state agency with which the respondent has  
25 a government contract if the respondent is a government

underscored material = new  
[bracketed material] = delete

1 contractor; or

2 (6) respondent's employer and clients if the  
3 respondent is a lobbyist.

4 D. If, after consideration of all the evidence, the  
5 commission does not find by clear and convincing evidence that  
6 the respondent's conduct constituted an ethics violation, the  
7 commission shall dismiss the complaint and provide notice of  
8 the dismissal to the respondent and complainant no later than  
9 five days after the finding is made. A notice issued pursuant  
10 to this subsection shall not be public except upon the request  
11 of the respondent.

12 E. Notwithstanding the provisions of the Open  
13 Meetings Act, commission hearings held pursuant to this section  
14 are closed to the public. The commission shall promulgate  
15 rules establishing procedures for hearings.

16 SECTION 12. [NEW MATERIAL] CONFIDENTIALITY OF RECORDS.--

17 All complaints, reports, files, records and communications  
18 collected or generated by the commission or its director that  
19 pertain to alleged ethics violations are confidential and not  
20 subject to the provisions of the Inspection of Public Records  
21 Act. Such complaints, reports, files, records or  
22 communications shall not be disclosed unless:

23 A. disclosure is required pursuant to the  
24 provisions of the State Ethics Commission Act;

25 B. they are offered into evidence at a judicial,

.183217.2

underscored material = new  
[bracketed material] = delete

1 legislative or administrative proceeding;

2 C. disclosure is required by law or ordered by a  
3 court; or

4 D. the respondent files with the commission a  
5 written waiver of confidentiality.

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

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

19 A. The commission shall not accept or consider a  
20 complaint unless the complaint is filed or initiated within  
21 three years from the date on which the alleged conduct  
22 occurred.

23 B. The commission shall not take action on a  
24 complaint filed or initiated against a candidate for a public  
25 office covered by the State Ethics Commission Act on or after

underscored material = new  
[bracketed material] = delete

1 the filing date for a primary election through election day of  
2 the general election, except in accordance with the provisions  
3 of the Campaign Reporting Act or the Voter Action Act. The  
4 commission shall dismiss complaints that are frivolous,  
5 unfounded or outside the jurisdiction of the commission. A  
6 complainant shall be notified of this provision and shall be  
7 notified that the complainant may refer any allegations of  
8 criminal conduct to the attorney general or appropriate  
9 district attorney. The respondent shall be notified that a  
10 complaint has been filed and of the specific allegations in the  
11 complaint.

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

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

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

18 (1) files a complaint with the commission  
19 alleging an ethics violation against a state official, state  
20 employee, government contractor or lobbyist; or

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

25 B. Nothing in the State Ethics Commission Act

.183217.2

underscoring material = new  
[bracketed material] = delete

1 precludes civil actions or criminal sanctions for libel,  
2 slander or other civil or criminal claims against a person who  
3 files a false claim under that act.

4 SECTION 16. [NEW MATERIAL] CONFIDENTIALITY--PENALTY.--

5 A. Disclosure of any confidential complaint,  
6 report, file, record or communication in violation of the State  
7 Ethics Commission Act is a misdemeanor and shall be punished by  
8 a fine of not more than one thousand dollars (\$1,000) or by  
9 imprisonment for not more than one year or both.

10 B. In addition to a penalty imposed pursuant to  
11 Subsection A of this section, a court may impose a civil  
12 penalty not to exceed twenty-five thousand dollars (\$25,000)  
13 for each violation of Section 12 of the State Ethics Commission  
14 Act.

15 C. The provisions of this section apply to a  
16 commission member, the director and commission employees or  
17 agents and also apply to a complainant from the time the  
18 complaint is filed until it is resolved and a final  
19 determination is made.

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

24 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting  
25 Act:

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1           A. "advertising campaign" means an advertisement or  
2 series of advertisements used for a political purpose and  
3 disseminated to the public either in print, by radio or  
4 television broadcast or by any other electronic means,  
5 including telephonic communications, and may include direct or  
6 bulk mailings of printed materials;

7           B. "anonymous contribution" means a contribution  
8 the contributor of which is unknown to the candidate or the  
9 candidate's agent or the political committee or its agent who  
10 accepts the contribution;

11           C. "bank account" means an account in a financial  
12 institution located in New Mexico;

13           D. "campaign committee" means two or more persons  
14 authorized by a candidate to raise, collect or expend  
15 contributions on the candidate's behalf for the purpose of  
16 electing the candidate to office;

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

21                   (1) for a non-statewide office, has received  
22 contributions or made expenditures of one thousand dollars  
23 (\$1,000) or more or authorized another person or campaign  
24 committee to receive contributions or make expenditures of one  
25 thousand dollars (\$1,000) or more for the purpose of seeking

.183217.2



underscoring material = new  
~~[bracketed material] = delete~~

1 election to the office; or

2 (2) for a statewide office, has received  
3 contributions or made expenditures of two thousand five hundred  
4 dollars (\$2,500) or more or authorized another person or  
5 campaign committee to receive contributions or make  
6 expenditures of two thousand five hundred dollars (\$2,500) or  
7 more for the purpose of seeking election to the office or for  
8 candidacy exploration purposes in the years prior to the year  
9 of the election;

10 F. "contribution" means 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, nor does it include the  
19 administrative or solicitation expenses of a political  
20 committee that are paid by an organization that sponsors the  
21 committee;

22 G. "deliver" or "delivery" means to deliver by  
23 certified or registered mail, telecopier, electronic  
24 transmission or facsimile or by personal service;

25 H. "election" means any primary, general or

.183217.2

underscored material = new  
~~[bracketed material] = delete~~

1 statewide special election in New Mexico and includes county  
2 and judicial retention elections but excludes municipal, school  
3 board and special district elections;

4 I. "election year" means an even-numbered year in  
5 which an election covered by the Campaign Reporting Act is  
6 held;

7 J. "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 for a political  
10 purpose, including payment of a debt incurred in an election  
11 campaign or pre-primary convention, but does not include the  
12 administrative or solicitation expenses of a political  
13 committee that are paid by an organization that sponsors the  
14 committee;

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

16 L. "political committee" means two or more persons,  
17 other than members of a candidate's immediate family or  
18 campaign committee or a husband and wife who make a  
19 contribution out of a joint account, who are selected,  
20 appointed, chosen, associated, organized or operated primarily  
21 for a political purpose; and "political committee" includes:

22 (1) political parties, political action  
23 committees or similar organizations composed of employees or  
24 members of any corporation, labor organization, trade or  
25 professional association or any other similar group that

.183217.2

underscored material = new  
[bracketed material] = delete

1 raises, collects, expends or contributes money or any other  
2 thing of value for a political purpose;

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

5 (3) a person or an organization of two or more  
6 persons that within one calendar year expends funds in excess  
7 of five hundred dollars (\$500) to conduct an advertising  
8 campaign for a political purpose;

9 M. "political purpose" means influencing or  
10 attempting to influence an election or pre-primary convention,  
11 including a constitutional amendment or other question  
12 submitted to the voters;

13 N. "prescribed form" means a form or electronic  
14 format prepared and prescribed by the [~~secretary of~~] state  
15 ethics commission;

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

19 P. "public official" means a person elected to an  
20 office in an election covered by the Campaign Reporting Act or  
21 a person appointed to an office that is subject to an election  
22 covered by that act; and

23 Q. "reporting individual" means every public  
24 official, candidate or treasurer of a campaign committee and  
25 every treasurer of a political committee."

.183217.2

underscored material = new  
[bracketed material] = delete

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

3           "1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--  
4 DISCLOSURES.--

5           A. It is unlawful for [~~any~~] a political committee  
6 that receives, contributes or expends in excess of five hundred  
7 dollars (\$500) in any calendar year to continue to receive or  
8 make [~~any~~] a contribution or expenditure for a political  
9 purpose unless that political committee appoints and maintains  
10 a treasurer and registers with the [~~secretary of~~] state ethics  
11 commission.

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

18                   (1) the full name of the political committee,  
19 which shall fairly and accurately reflect the identity of the  
20 committee, including any sponsoring organization, and its  
21 address;

22                   (2) a statement of the purpose for which the  
23 political committee was organized;

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 (4) the names and addresses of the officers of  
2 the committee; and

3 (5) an identification of the bank used by the  
4 committee for all expenditures or contributions made or  
5 received.

6 C. The provisions of this section do not apply to a  
7 political committee that is located in another state and is  
8 registered with the federal election commission if the  
9 political committee reports on federal reporting forms filed  
10 with the federal election commission all expenditures for and  
11 contributions made to reporting individuals in New Mexico and  
12 files with the [~~secretary of~~] state ethics commission,  
13 according to the schedule required for the filing of forms with  
14 the federal election commission, a copy of either the full  
15 report or the cover sheet and the portions of the federal  
16 reporting forms that contain the information on expenditures  
17 for and contributions made to reporting individuals in New  
18 Mexico."

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

21 "1-19-26.2. RULES AND REGULATIONS.--The [~~secretary of~~]  
22 state ethics commission may adopt and promulgate rules [~~and~~  
23 ~~regulations~~] to implement the provisions of the Campaign  
24 Reporting Act. In adopting and promulgating these rules [~~and~~  
25 ~~regulations~~], the [~~secretary of state~~] commission shall comply

.183217.2

underscored material = new  
[bracketed material] = delete

1 with the provisions of the Administrative Procedures Act. In  
2 addition to any other notification required pursuant to the  
3 provisions of Paragraph (2) of Subsection A of Section 12-8-4  
4 NMSA 1978, the [~~secretary of state~~] commission shall notify all  
5 qualified political parties in the state and the New Mexico  
6 legislative council prior to adopting, amending or repealing  
7 any rule [~~or regulation~~] implementing the Campaign Reporting  
8 Act."

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

11 "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER.--

12 A. Except for those candidates and public  
13 [~~officials~~] officials who file a statement of no activity, all  
14 reporting individuals shall file with the proper filing officer  
15 a report of expenditures and contributions on a prescribed  
16 form.

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

20 C. The proper filing officer for filing reports of  
21 expenditures and contributions or statements of no activity is  
22 the [~~secretary of~~] state ethics commission for all candidates  
23 and public officials.

24 D. The [~~secretary of~~] state ethics commission shall  
25 develop or contract for services to develop an electronic

.183217.2

underscoring material = new  
[bracketed material] = delete

1 reporting system for receiving and for public inspection of  
2 reports of expenditures and contributions and statements of no  
3 activity to the Campaign Reporting Act. The electronic  
4 reporting system shall:

5 (1) enable a person to file reports online by  
6 filling out forms on the [~~secretary of state's~~] commission's  
7 web site; and

8 (2) provide for encrypted transmissions."

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

11 "1-19-28. FURNISHING REPORT FORMS--POLITICAL COMMITTEES--  
12 CANDIDATES.--

13 A. The [~~secretary of~~] state ethics commission  
14 annually shall furnish to all reporting individuals the  
15 prescribed forms for the reporting of expenditures and  
16 contributions, supplemental reports and a statement of no  
17 activity and the specific dates the reports and statement are  
18 due.

19 B. In addition to the provisions of Subsection A of  
20 this section, at the time of filing a declaration of candidacy  
21 or a nominating petition, the [~~proper filing officer~~] secretary  
22 of state or county clerk shall give the candidate the  
23 prescribed reporting forms and the schedule of specific dates  
24 for filing the required reports or a statement of no activity.  
25 The prescribed forms shall also be made available to all

.183217.2

underscored material = new  
[bracketed material] = delete

1 reporting individuals at the office of the secretary of state,  
2 the state ethics commission and in each county at the office of  
3 the county clerk."

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

6 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

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

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

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

.183217.2



underscoring material = new  
~~[bracketed material]~~ = delete

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

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

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

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

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1 Friday before the election may be reported by 12:00 noon on the  
2 Monday before the election; and

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

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

17 D. In an election year, a public official who is  
18 not a candidate shall file biannual reports of expenditures  
19 made and contributions received or statements of no activity in  
20 accordance with the schedule provided for in Subsection A of  
21 this section.

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

25 F. Except for candidates and public officials who

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1 file a statement of no activity, each reporting individual  
2 shall file a report of expenditures and contributions pursuant  
3 to the filing schedules set forth in this section, regardless  
4 of whether any expenditures were made or contributions were  
5 received during the reporting period. Reports shall be  
6 required until the reporting individual delivers a report to  
7 the proper filing officer stating that:

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

12 G. Each treasurer of a political committee shall  
13 file a report of expenditures and contributions pursuant to the  
14 filing schedules set forth in this section until the treasurer  
15 files a report that affirms that the committee has dissolved or  
16 no longer exists and that its bank account has been closed.

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

25 I. Reports required by this section shall be

.183217.2

underscored material = new  
[bracketed material] = delete

1 subscribed and sworn to by the candidate or the treasurer of  
2 the political committee. A report filed electronically shall  
3 be electronically authenticated by the candidate or the  
4 treasurer of the political committee using an electronic  
5 signature in conformance with the Electronic Authentication of  
6 Documents Act and the Uniform Electronic Transactions Act. For  
7 the purposes of the Campaign Reporting Act, a report that is  
8 electronically authenticated in accordance with the provisions  
9 of this subsection shall be deemed to have been subscribed and  
10 sworn to by the candidate or the treasurer of the political  
11 committee who was required to file the report.

12 J. Reports required by this section shall be filed  
13 electronically by all reporting individuals.

14 K. Reporting individuals may apply to the  
15 [~~secretary of~~] state ethics commission for exemption from  
16 electronic filing in case of hardship, which shall be defined  
17 by the [~~secretary of state~~] commission."

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

20 "1-19-31. CONTENTS OF REPORT.--

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

25 (1) the name and address of the person or

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1 entity to whom an expenditure was made or from whom a  
2 contribution was received, except as provided for anonymous  
3 contributions or contributions received from special events as  
4 provided in Section 1-19-34 NMSA 1978; provided that for  
5 contributors, the name of the entity or the first and last  
6 names of any individual shall be the full name of the entity or  
7 individual, and initials only shall not constitute a full name  
8 unless that is the complete legal name;

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

12 (3) the amount of the expenditure or  
13 contribution or value thereof;

14 (4) the purpose of the expenditure; and

15 (5) the date the expenditure was made or the  
16 contribution was received.

17 B. Each report shall contain an opening and  
18 closing cash balance for the bank account maintained by the  
19 reporting individual during the reporting period and the name  
20 of the financial institution.

21 C. Each report shall specify the amount of each  
22 unpaid debt and the identity of the person to whom the debt is  
23 owed."

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

.183217.2

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

2 A. Each of the following documents is a public  
3 record open to public inspection during regular office hours in  
4 the office in which the document was filed or from which the  
5 document was issued:

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

7 (2) a report of expenditures and  
8 contributions;

9 (3) an advisory opinion issued by the  
10 [~~secretary of~~] state ethics commission;

11 (4) a document specified as a public record in  
12 the Campaign Reporting Act; and

13 (5) an arbitration decision issued by an  
14 arbitration panel and filed with the [~~secretary of~~] state  
15 ethics commission.

16 B. Each public record described in Subsection A of  
17 this section shall be retained by the state for five years and  
18 may be destroyed five years after the date of filing unless a  
19 legal action or prosecution is pending that requires the  
20 preservation of the public record.

21 C. The [~~secretary of~~] state ethics commission shall  
22 provide for electronic access to reports of expenditures and  
23 contributions and statements of [~~exception~~] no activity  
24 submitted electronically by reporting individuals. Electronic  
25 access shall include access via the internet and shall be in an

.183217.2

underscored material = new  
[bracketed material] = delete

1 easily searchable format."

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

4 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF  
5 REPORTS.--

6 A. The [~~secretary of~~] state ethics commission shall  
7 conduct a thorough examination of at least ten percent of all  
8 reports filed during a year by reporting individuals, selected  
9 at random at least forty days after the general election and  
10 ten days after the April reports are filed in a nonelection  
11 year, to determine compliance with the provisions of the  
12 Campaign Reporting Act. The examination may include an  
13 investigation of any discrepancies, including a cross-reference  
14 to reports filed by any other reporting individual. A  
15 reporting individual shall be notified in writing if a  
16 discrepancy is found in the report filed and shall be permitted  
17 to file a written explanation for the discrepancy within ten  
18 working days of the date of the notice. The notice, penalty  
19 and arbitration provisions set forth in Section 1-19-34.4 NMSA  
20 1978 shall apply to examinations conducted under this section.

21 B. After the date stated in the notice of final  
22 action for submission of a written explanation, the [~~secretary~~  
23 ~~of~~] state ethics commission shall prepare an annual report of  
24 any unresolved discrepancies found after examination of the  
25 random sample provided for in Subsection A of this section. A

.183217.2

underscored material = new  
[bracketed material] = delete

1 copy of this report shall be transmitted to the attorney  
2 general for enforcement pursuant to the provisions of Section  
3 1-19-36 NMSA 1978. This report is a public record open to  
4 public inspection and subject to the retention and destruction  
5 provisions set forth in Section 1-19-32 NMSA 1978."

6 SECTION 26. Section 1-19-34.4 NMSA 1978 (being Laws 1993,  
7 Chapter 46, Section 15, as amended) is amended to read:

8 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--  
9 INVESTIGATIONS--BINDING ARBITRATION--REFERRALS FOR  
10 ENFORCEMENT.--

11 A. The [~~secretary of~~] state ethics commission shall  
12 advise and seek to educate all persons required to perform  
13 duties under the Campaign Reporting Act of those duties. This  
14 includes advising all known reporting individuals at least  
15 annually of that act's deadlines for submitting required  
16 reports and statements of exception. The [~~secretary of state~~]  
17 commission, in consultation with the attorney general, shall  
18 issue advisory opinions, when requested in writing to do so, on  
19 matters concerning that act. All prescribed forms prepared  
20 shall be clear and easy to complete.

21 B. The [~~secretary of~~] state ethics commission may  
22 initiate investigations to determine whether any provision of  
23 the Campaign Reporting Act has been violated. Additionally,  
24 any person who believes that a provision of that act has been  
25 violated may file a written complaint with the [~~secretary of~~

.183217.2



underscored material = new  
[bracketed material] = delete

1 ~~state]~~ commission any time prior to ninety days after an  
2 election, except that no complaints from the public may be  
3 filed within eight days prior to an election. The [~~secretary~~  
4 ~~of state]~~ commission shall adopt procedures for issuing  
5 advisory opinions and processing complaints and notifications  
6 of violations.

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

25 D. Upon receipt of the notice of final action, the

.183217.2

underscored material = new  
[bracketed material] = delete

1 person against whom the penalty has been imposed may protest  
2 the ~~[secretary of state's]~~ state ethics commission's  
3 determination, including an advisory opinion, by submitting on  
4 a prescribed form a written request for binding arbitration to  
5 the ~~[secretary of state]~~ commission within ten working days of  
6 the date of the notice of final action. Any fine imposed shall  
7 be due and payable within ten working days of the date of  
8 notice of final action. No additional fine shall accrue  
9 pending the issuance of the arbitration decision. Fines paid  
10 pursuant to a notice of final action that are subsequently  
11 reduced or dismissed shall be reimbursed with interest within  
12 ten working days after the filing of the arbitration decision  
13 with the ~~[secretary of state]~~ commission. Interest on the  
14 reduced or dismissed portion of the fine shall be the same as  
15 the rate of interest earned by the ~~[secretary of state's]~~  
16 commission's escrow account to be established by the department  
17 of finance and administration.

18 E. An arbitration hearing shall be conducted 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 ~~[Neither the~~  
22 ~~secretary of state nor]~~ ethics commission. A person subject to  
23 the Campaign Reporting Act, Lobbyist Regulation Act or  
24 Financial Disclosure Act ~~[may]~~ shall not serve as an  
25 arbitrator. Arbitrators shall be considered to be independent

.183217.2

underscored material = new  
[bracketed material] = delete

1 contractors, not public officers or employees, and shall not be  
2 paid per diem and mileage.

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

17 G. The [~~secretary of~~] state ethics commission may  
18 refer a matter to the attorney general or a district attorney  
19 for a civil injunctive or other appropriate order or for  
20 criminal enforcement."

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

23 "1-19-34.6. CIVIL PENALTIES.--

24 A. If the [~~secretary of~~] state ethics commission  
25 reasonably believes that a person committed, or is about to

.183217.2

underscored material = new  
[bracketed material] = delete

1 commit, a violation of the Campaign Reporting Act, the  
2 [~~secretary of state~~] commission shall refer the matter to the  
3 attorney general or a district attorney for enforcement.

4 B. The attorney general or district attorney may  
5 institute a civil action in district court for any violation of  
6 the Campaign Reporting Act or to prevent a violation of that  
7 act that involves an unlawful solicitation or the making or  
8 acceptance of an unlawful contribution. An action for relief  
9 may include a permanent or temporary injunction, a restraining  
10 order or any other appropriate order, including a civil penalty  
11 of two hundred fifty dollars (\$250) for each violation not to  
12 exceed five thousand dollars (\$5,000), and forfeiture of any  
13 contribution received as a result of an unlawful solicitation  
14 or unlawful contribution. Each unlawful solicitation and each  
15 unlawful contribution made or accepted shall be deemed a  
16 separate violation of the Campaign Reporting Act.

17 C. The attorney general or district attorney may  
18 institute a civil action in district court if a violation has  
19 occurred or to prevent a violation of any provision of the  
20 Campaign Reporting Act other than that specified in Subsection  
21 B of this section. Relief may include a permanent or temporary  
22 injunction, a restraining order or any other appropriate order,  
23 including an order for a civil penalty of fifty dollars  
24 (\$50.00) for each violation not to exceed five thousand dollars  
25 (\$5,000)."

.183217.2

underscored material = new  
[bracketed material] = delete

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

3           "1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES--  
4 POLITICAL COMMITTEES.--

5           A. The following contributions by the following  
6 persons are prohibited:

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

9                               (a) candidate for nonstatewide 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 two thousand three hundred dollars (\$2,300) during  
13 the primary election or two thousand three hundred dollars  
14 (\$2,300) during the general election;

15                               (b) candidate for statewide office,  
16 including the candidate's campaign committee, in an amount that  
17 will cause that person's total contributions to the candidate  
18 to exceed five thousand dollars (\$5,000) during the primary  
19 election or five thousand dollars (\$5,000) during the general  
20 election; or

21                               (c) political committee in an amount  
22 that will cause that person's total contributions to the  
23 political committee to exceed five thousand dollars (\$5,000)  
24 during a primary election or five thousand dollars (\$5,000)  
25 during a general election; and

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1 (2) from a political committee to:

2 (a) a candidate for office, including  
3 the candidate's campaign committee, in an amount that will  
4 cause the political committee's total contributions to the  
5 candidate to exceed five thousand dollars (\$5,000) during the  
6 primary election or five thousand dollars (\$5,000) during the  
7 general election; or

8 (b) another political committee in an  
9 amount that will cause that political committee's total  
10 contributions to the political committee to exceed five  
11 thousand dollars (\$5,000) during a primary election or five  
12 thousand dollars (\$5,000) during a general election.

13 B. All contributions made by a person to a  
14 candidate, either directly or indirectly, including  
15 contributions that are in any way earmarked or otherwise  
16 directed through another person to a candidate, shall be  
17 treated as contributions from the person to that candidate.

18 C. A person, including a political committee, shall  
19 not knowingly accept or solicit a contribution, directly or  
20 indirectly, including a contribution earmarked or otherwise  
21 directed or coordinated through another person, including a  
22 political committee, that violates the contribution limits  
23 provided for in this section.

24 D. On the day after each general election, the  
25 contribution amounts provided in Subsection A of this section

.183217.2

underscoring material = new  
[bracketed material] = delete

1 shall be increased by the percentage of the preceding two  
2 calendar year's increase of the consumer price index for all  
3 urban consumers, United States city average for all items,  
4 published by the United States department of labor. The amount  
5 of the increase shall be rounded to the nearest multiple of one  
6 hundred dollars (\$100). The ~~[secretary of]~~ state ethics  
7 commission shall publish by October 1 before each general  
8 election the adjusted contribution limits that shall take  
9 effect the day after the following general election.

10 E. All contributions in excess of the limits  
11 imposed by the provisions of this section shall be deposited in  
12 the public election fund upon a finding by the ~~[secretary of]~~  
13 state ethics commission that the contribution limits have been  
14 exceeded.

15 F. The limitation on contributions to a candidate  
16 provided for in Subsection A of this section shall not apply to  
17 a candidate's own contribution from the candidate's personal  
18 funds to the candidate's own campaign.

19 G. For the purposes of this section:

20 (1) "primary election" means the period  
21 beginning on the day after the general election for the  
22 applicable office and ending on the day of the primary for that  
23 office; and

24 (2) "general election" means the period  
25 beginning on the day after the primary for the applicable

underscored material = new  
[bracketed material] = delete

1 office and ending on the day of the general election for that  
2 office."

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

5 "1-19-35. REPORTS AND STATEMENTS--LATE FILING  
6 PENALTY--FAILURE TO FILE.--

7 A. Except for the report required to be filed and  
8 delivered the Thursday prior to the election and any  
9 supplemental report, as required in Paragraph (5) of Subsection  
10 B of Section 1-19-29 NMSA 1978, that is due prior to the  
11 election, and subject to the provisions of Section 1-19-34.4  
12 NMSA 1978, if a statement of no activity or a report of  
13 expenditures and contributions contains false or incomplete  
14 information or is filed after any deadline imposed by the  
15 Campaign Reporting Act, the responsible reporting individual or  
16 political committee, in addition to any other penalties or  
17 remedies prescribed by the Election Code, shall be liable for  
18 and shall pay to the [~~secretary of~~] state ethics commission  
19 fifty dollars (\$50.00) per day for each regular working day  
20 after the time required by the Campaign Reporting Act for the  
21 filing of statements of no activity or reports of expenditures  
22 and contributions until the complete or true statement or  
23 report is filed, up to a maximum of five thousand dollars  
24 (\$5,000).

25 B. If any reporting individual files a false,

.183217.2



underscored material = new  
[bracketed material] = delete

1 intentionally incomplete or late report of expenditures and  
2 contributions due on the Thursday prior to the election, the  
3 reporting individual or political committee shall be liable  
4 and pay to the [~~secretary of~~] state ethics commission five  
5 hundred dollars (\$500) for the first working day and fifty  
6 dollars (\$50.00) for each subsequent working day after the time  
7 required for the filing of the report until the true and  
8 complete report is filed, up to a maximum of five thousand  
9 dollars (\$5,000).

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

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

23 E. Any candidate who fails or refuses to file a  
24 report of expenditures and contributions or statement of no  
25 activity or to pay a penalty imposed by the [~~secretary of~~]

.183217.2

underscored material = new  
[bracketed material] = delete

1 state ethics commission as required by the Campaign Reporting  
2 Act shall not, in addition to any other penalties provided by  
3 law:

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

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

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

21 **SECTION 30.** Section 1-19A-2 NMSA 1978 (being Laws 2003,  
22 Chapter 14, Section 2, as amended) is amended to read:

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

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

underscored material = new  
[bracketed material] = delete

1 certified candidate in a primary or general election;

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

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

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

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

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

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

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 of intent to participate but who fails to qualify;

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

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

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

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

18 [I.] J. "qualifying period" means:

19 (1) for major party applicant candidates for  
20 covered offices, the period beginning October 1 immediately  
21 preceding the election year and ending at 5:00 p.m. on the  
22 third Tuesday of March of the election year; and

23 (2) for independent and minor party  
24 candidates, the period beginning February 1 of the election  
25 year and ending that year at 5:00 p.m. on the filing date for

.183217.2

underscored material = new  
[bracketed material] = delete

1 independent or minor party candidates for the office for which  
2 the candidate is running;

3 [J. ~~"secretary" means the secretary of state or the~~  
4 ~~office of the secretary of state~~] and

5 K. "seed money" means a contribution raised for the  
6 primary purpose of enabling applicant candidates to collect  
7 qualifying contributions and petition signatures."

8 SECTION 31. Section 1-19A-3 NMSA 1978 (being Laws 2003,  
9 Chapter 14, Section 3) is amended to read:

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

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

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 that act and rules issued by the [~~secretary~~] commission.

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

8 SECTION 32. Section 1-19A-6 NMSA 1978 (being Laws 2003,  
9 Chapter 14, Section 6) is amended to read:

10 "1-19A-6. CERTIFICATION.--

11 A. Upon receipt of a final submittal of qualifying  
12 contributions by an applicant candidate, the [~~secretary~~]  
13 commission shall determine whether the applicant candidate has:

14 (1) signed and filed a declaration of intent  
15 to obtain financing pursuant to the Voter Action Act in  
16 accordance with the requirements of that act;

17 (2) submitted the appropriate number of  
18 qualifying contributions;

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

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

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

25 B. The [~~secretary~~] commission shall certify

.183217.2

underscoring material = new  
[bracketed material] = delete

1 applicant candidates complying with the requirements of this  
2 section as certified candidates as soon as possible and no  
3 later than ten days after final submittal of qualifying  
4 contributions and certification as a candidate pursuant to  
5 other applicable state election law.

6 C. A certified candidate shall comply with all  
7 requirements of the Voter Action Act after certification and  
8 throughout the primary election and general election cycles. A  
9 certified candidate who accepts public campaign finance funds  
10 for the primary election shall comply with all the requirements  
11 of the Voter Action Act for the remainder of the election cycle  
12 in question, even if ~~[he]~~ the certified candidate decides not  
13 to accept such funds for the general election."

14 SECTION 33. Section 1-19A-7 NMSA 1978 (being Laws 2003,  
15 Chapter 14, Section 7, as amended) is amended to read:

16 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS  
17 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

18 A. All money distributed to a certified candidate  
19 shall be used for that candidate's campaign-related purposes in  
20 the election cycle in which the money was distributed.

21 B. A certified candidate shall return to the fund  
22 any amount that is unspent or unencumbered at the time that  
23 person ceases to be a candidate before a primary or general  
24 election for which the fund money was distributed.

25 C. A certified candidate shall limit total campaign

underscored material = new  
[bracketed material] = delete

1 expenditures and debts to the amount of money distributed to  
2 that candidate from the fund. A certified candidate shall not  
3 accept contributions or loans from any other source except the  
4 certified candidate's political party, as specified in Section  
5 1-19A-8 NMSA 1978.

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

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

14 SECTION 34. Section 1-19A-9 NMSA 1978 (being Laws 2003,  
15 Chapter 14, Section 9) is amended to read:

16 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

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

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

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

.183217.2



underscored material = new  
[bracketed material] = delete

1     [~~secretary~~] commission shall use existing campaign reporting  
2     procedures and deadlines whenever practical.

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

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

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

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

25                    (2) for the general election, by 5:00 p.m. the

.183217.2

underscored material = new  
[bracketed material] = delete

1 first Tuesday in October, by 5:00 p.m. on the eleventh day  
2 before the election and by 5:00 p.m. on the Thursday before the  
3 election."

4 SECTION 35. Section 1-19A-10 NMSA 1978 (being Laws 2003,  
5 Chapter 14, Section 10, as amended) is amended to read:

6 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

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

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

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

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

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

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

24 (2) any recurring balance of unspent fund  
25 money distributed to a certified candidate who does not remain

.183217.2

underscored material = new  
~~[bracketed material] = delete~~

1 a candidate through the primary or general election period for  
2 which the money was distributed;

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

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

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

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

14 (7) money appropriated by the legislature.

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

19 E. Three hundred thousand dollars (\$300,000) per  
20 year shall be collected and deposited in the subaccount for  
21 public regulation commission elections as follows:

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

25 (2) one hundred thousand dollars (\$100,000)

.183217.2

underscored material = new  
[bracketed material] = delete

1 from utility and carrier inspection fees collected pursuant to  
2 Section 63-7-20 NMSA 1978; and

3 (3) one hundred thousand dollars (\$100,000)  
4 from the [~~insurance~~] premium tax collected pursuant to Section  
5 59A-6-2 NMSA 1978."

6 SECTION 36. Section 1-19A-11 NMSA 1978 (being Laws 2003,  
7 Chapter 14, Section 11) is amended to read:

8 "1-19A-11. DETERMINATION OF FUND AMOUNT.--

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

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

19 SECTION 37. Section 1-19A-12 NMSA 1978 (being Laws 2003,  
20 Chapter 14, Section 12) is amended to read:

21 "1-19A-12. TIMING OF FUND DISTRIBUTION.--

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 section.

2 B. For a primary election certified candidate, the  
3 [~~secretary~~] commission shall distribute the amount due to that  
4 certified candidate for that covered office within one week of  
5 certification.

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

12 SECTION 38. Section 1-19A-13 NMSA 1978 (being Laws 2003,  
13 Chapter 14, Section 13, as amended) is amended to read:

14 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

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

21 B. For contested primary elections, the amount of  
22 money to be distributed to a certified candidate is equal to  
23 the following:

24 (1) for the office of public regulation  
25 commissioner, twenty-five cents (\$.25) for each voter of the

.183217.2

underscored material = new  
~~[bracketed material] = delete~~

1 candidate's party in the district of the office for which the  
2 candidate is running; and

3 (2) for the office of justice of the supreme  
4 court and judge of the court of appeals, fifteen cents (\$.15)  
5 for each voter of the candidate's party in the state.

6 C. For uncontested primary elections, the amount of  
7 money to be distributed to a certified candidate is equal to  
8 fifty percent of the amount specified in Subsection B of this  
9 section.

10 D. For contested general elections, the amount of  
11 money to be distributed to a certified candidate is equal to  
12 the following:

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

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

19 E. For uncontested general elections, except as  
20 provided in Subsection I of this section, the amount of money  
21 to be distributed to a certified candidate is equal to fifty  
22 percent of the amount specified in Subsection D of this  
23 section. If a general election race that is initially  
24 uncontested later becomes contested because of the  
25 qualification of an independent or minor party candidate to

.183217.2

underscored material = new  
[bracketed material] = delete

1 appear on the ballot for that race, an additional amount of  
2 money shall be distributed to the certified candidate to make  
3 that candidate's total distribution amount equal to the amount  
4 distributed pursuant to Subsection D of this section.

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

25 G. If the allocation specified in Subsection F of

.183217.2

underscored material = new  
[bracketed material] = delete

1 this section is greater than the total amount available for  
2 distribution, then the amounts to be distributed to individual  
3 candidates, specified in Subsections B through E of this  
4 section, shall each be reduced by the same percentage as the  
5 reduction by which the total amount needed has been reduced  
6 relative to the total amount available.

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

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

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

21 "1-19A-14. MATCHING FUNDS.--When a certified or  
22 noncertified candidate has one or more opponents who are  
23 certified candidates and the candidate's campaign finance  
24 report or group of reports shows that the sum of the  
25 candidate's expenditures and obligations made, or funds raised

.183217.2



underscored material = new  
[bracketed material] = delete

1 or borrowed, whichever is greater, alone or in conjunction with  
2 expenditures made independently of the candidate to influence  
3 the election on behalf of the candidate, exceeds the amount  
4 distributed to an opposing certified candidate, the ~~[secretary]~~  
5 commission shall issue immediately to any opposing certified  
6 candidate an additional amount equivalent to the excess amount  
7 reported by the opposing candidate. Total matching funds to a  
8 certified candidate in an election are limited to twice the  
9 amount originally distributed to that candidate pursuant to  
10 Section 1-19A-13 NMSA 1978."

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

13 "1-19A-15. ADMINISTRATION--~~[SECRETARY OF STATE]~~  
14 COMMISSION--DUTIES.--

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

17 B. The rules shall include procedures for:

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

25 SECTION 41. Section 1-19A-16 NMSA 1978 (being Laws 2003,

.183217.2

underscored material = new  
[bracketed material] = delete

1 Chapter 14, Section 16) is amended to read:

2 "1-19A-16. APPEALS.--The procedure for challenging a  
3 certification decision by the [~~secretary~~] commission is as  
4 follows:

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

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

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

17 (2) the [~~secretary~~] commission shall rule on  
18 the appeal within three days after the completion of the  
19 hearing;

20 C. the parties in dispute may appeal the decision  
21 of the [~~secretary~~] commission by commencing an action in  
22 district court; and

23 D. certified candidates whose certification is  
24 revoked on appeal shall return to the [~~secretary~~] commission  
25 any unspent money distributed from the fund. If the

.183217.2

underscored material = new  
[bracketed material] = delete

1 [secretary] commission or court finds that an appeal was made  
2 frivolously or to result in delay or hardship, the [secretary]  
3 commission or court may sanction the moving party by requiring  
4 the party to pay costs of the administrative hearing, the court  
5 hearing and the opposing parties."

6 SECTION 42. Section 1-19A-17 NMSA 1978 (being Laws 2003,  
7 Chapter 14, Section 17) is amended to read:

8 "1-19A-17. PENALTIES.--

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

23 B. A person who willfully or knowingly violates the  
24 provisions of the Voter Action Act or rules of the [secretary]  
25 commission or knowingly makes a false statement in a report

.183217.2

underscored material = new  
[bracketed material] = delete

1 required by that act is guilty of a fourth degree felony and,  
2 if [~~he~~] the person is a certified candidate, shall return to  
3 the fund all money distributed to that candidate."

4 SECTION 43. Section 2-11-2 NMSA 1978 (being Laws 1977,  
5 Chapter 261, Section 2, as amended) is amended to read:

6 "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation  
7 Act:

8 A. "compensation" means any money, per diem,  
9 salary, fee or portion thereof or the equivalent in services  
10 rendered or in-kind contributions received or to be received in  
11 return for lobbying services performed or to be performed;

12 B. "expenditure" means a payment, transfer or  
13 distribution or obligation or promise to pay, transfer or  
14 distribute any money or other thing of value, but does not  
15 include a lobbyist's own 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;

19 C. "legislative committee" means a committee  
20 created by the legislature, including interim and standing  
21 committees of the legislature;

22 D. "lobbying" means attempting to influence:

23 (1) a decision related to any matter to be  
24 considered or being considered by the legislative branch of  
25 state government or any legislative committee or any

.183217.2

underscored material = new  
[bracketed material] = delete

1 legislative matter requiring action by the governor or awaiting  
2 action by the governor; or

3 (2) an official action;

4 E. "lobbyist" means any individual who is  
5 compensated for the specific purpose of lobbying; is designated  
6 by an interest group or organization to represent it on a  
7 substantial or regular basis for the purpose of lobbying; or in  
8 the course of [~~his~~] employment, is engaged in lobbying on a  
9 substantial or regular basis. "Lobbyist" does not include:

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

13 (2) [~~any~~] an elected or appointed officer of  
14 the state or its political subdivisions or an Indian nation,  
15 tribe or pueblo acting in [~~his~~] the officer's official  
16 capacity;

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 designation;

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

6 (5) a member of the legislature, the staff of  
7 [~~any~~] a member of the legislature or the staff of [~~any~~] a  
8 legislative committee when addressing legislation;

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

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

18 (8) a publisher, owner or employee of the  
19 print media, radio or television, while gathering or  
20 disseminating news or editorial comment to the general public  
21 in the ordinary course of business;

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

25 G. "official action" means the action or nonaction

underscored material = new  
[bracketed material] = delete

1 of a state official or state agency, board or commission acting  
2 in a rulemaking proceeding;

3 H. "person" means an individual, partnership,  
4 association, committee, federal, state or local governmental  
5 entity or agency, however constituted, public or private  
6 corporation or any other organization or group of persons who  
7 are voluntarily acting in concert;

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

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

17 K. "rulemaking proceeding" means a formal process  
18 conducted by a state agency, board or commission for the  
19 purpose of adopting a rule, regulation, standard, policy or  
20 other requirement of general applicability and does not include  
21 adjudicatory proceedings; and

22 L. "state public officer" means a person holding a  
23 statewide office provided for in the constitution of New  
24 Mexico."

25 SECTION 44. Section 2-11-3 NMSA 1978 (being Laws 1977,  
.183217.2

underscored material = new  
[bracketed material] = delete

1 Chapter 261, Section 3, as amended) is amended to read:

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

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

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

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

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

25 C. For each employer listed in Paragraph (2) of

.183217.2



underscoring material = new  
[bracketed material] = delete

1 Subsection A of this section, the lobbyist shall file the  
2 following information:

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

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

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

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

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

23 E. Whenever there is a modification of the facts  
24 required to be set forth by this section or there is a  
25 termination of the lobbyist's employment as a lobbyist before

.183217.2

underscored material = new  
[bracketed material] = delete

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

7 SECTION 45. Section 2-11-6 NMSA 1978 (being Laws 1977,  
8 Chapter 261, Section 6, as amended) is amended to read:

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

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

24 (1) the cumulative total of the expenditures  
25 made or incurred, separated into categories that identify the

.183217.2

underscored material = new  
[bracketed material] = delete

1 total separate amounts spent on:

2 (a) meals and beverages;

3 (b) other entertainment expenditures;

4 (c) gifts; and

5 (d) other expenditures;

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

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

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 deemed to have been subscribed and sworn to by the lobbyist or  
2 the lobbyist's employer that is required to file the report.

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

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

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

24 (2) within forty-eight hours for each separate  
25 expenditure made or incurred during a legislative session that

.183217.2

underscored material = new  
[bracketed material] = delete

1 was for five hundred dollars (\$500) or more; and

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

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

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

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

25 H. An organization of two or more persons,

.183217.2

underscored material = new  
[bracketed material] = delete

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

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

21 "2-11-7. REGISTRATION AND EXPENDITURE STATEMENT--  
22 PRESERVATION AS PUBLIC RECORD.--Each registration and  
23 expenditure statement as required by the Lobbyist Regulation  
24 Act shall be preserved by the [~~secretary of~~] state ethics  
25 commission for a period of two years from the date of filing as

.183217.2

underscored material = new  
[bracketed material] = delete

1 a public record, open to public inspection at any reasonable  
2 time. Unless an action or prosecution is pending that requires  
3 preserving the report, it may be destroyed two years after the  
4 date of filing."

5 SECTION 47. Section 2-11-8.2 NMSA 1978 (being Laws 1977,  
6 Chapter 261, Section 4, as amended) is amended to read:

7 "2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--  
8 BINDING ARBITRATION--CIVIL PENALTIES.--

9 A. The [~~secretary of~~] state ethics commission shall  
10 advise and seek to educate all persons required to perform  
11 duties pursuant to the Lobbyist Regulation Act of those duties.  
12 This includes advising all registered lobbyists at least  
13 annually of the Lobbyist Regulation Act's deadlines for  
14 submitting required reports. The [~~secretary of state~~]  
15 commission, in consultation with the attorney general, shall  
16 issue advisory opinions, when requested to do so in writing, on  
17 matters concerning the Lobbyist Regulation Act. All prescribed  
18 forms prepared shall be clear and easy to complete.

19 B. The [~~secretary of~~] state ethics commission may  
20 conduct thorough examinations of reports and initiate  
21 investigations to determine whether the Lobbyist Regulation Act  
22 has been violated. Additionally, any person who believes that  
23 a provision of that act has been violated may file a written  
24 complaint with the [~~secretary of state~~] commission. The  
25 [~~secretary of state~~] commission shall adopt procedures for

.183217.2

underscored material = new  
[bracketed material] = delete

1 issuing advisory opinions, processing complaints and  
2 notifications of violations.

3 C. The [~~secretary of~~] state ethics commission shall  
4 at all times seek to ensure voluntary compliance with the  
5 provisions of the Lobbyist Regulation Act. If the [~~secretary~~  
6 ~~of state~~] commission determines that a provision of that act  
7 for which a penalty may be imposed has been violated, the  
8 [~~secretary of state~~] commission shall by written notice set  
9 forth the violation and the fine imposed and inform the person  
10 that [~~he~~] the person has ten working days to provide a written  
11 explanation, under penalty of perjury, stating any reason the  
12 violation occurred. If a timely explanation is filed and the  
13 [~~secretary of state~~] commission determines that good cause  
14 exists, the [~~secretary of state~~] commission may by a written  
15 notice of final action partially or fully waive any fine  
16 imposed. A written notice of final action shall be sent by  
17 certified mail.

18 D. If the person charged disputes the [~~secretary of~~  
19 ~~state's~~] state ethics commission's determination, including an  
20 advisory opinion, the person charged may request binding  
21 arbitration within ten working days of the date of the final  
22 action. Any penalty imposed shall be due and payable within  
23 ten working days of the notice of final action. No additional  
24 penalty shall accrue pending issuance of the arbitration  
25 decision. Fines paid pursuant to a notice of final action that

.183217.2



underscored material = new  
[bracketed material] = delete

1 are subsequently reduced or dismissed shall be reimbursed with  
2 interest within ten working days after the filing of the  
3 arbitration decision with the [~~secretary of state~~] commission.  
4 Interest on the reduced or dismissed portion of the fine shall  
5 be the same as the rate of interest earned by the [~~secretary of~~  
6 ~~state's~~] commission's escrow account to be established by the  
7 department of finance and administration.

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

18 F. The arbitrator may impose any penalty and take  
19 any action the [~~secretary of~~] state ethics commission is  
20 authorized to take. The arbitrator shall state the reasons for  
21 [~~his~~] the arbitrator's decision in a written document that  
22 shall be a public record. The decision shall be final and  
23 binding. The decision shall be issued and filed with the  
24 [~~secretary of state~~] commission within thirty days of the  
25 conclusion of the hearing. Unless otherwise provided for in

.183217.2

underscored material = new  
[bracketed material] = delete

1 this section, or by rule or regulation adopted by the  
2 [~~secretary of state~~] commission, the procedures for the  
3 arbitration shall be governed by the Uniform Arbitration Act.  
4 No arbitrator shall be subject to liability for actions taken  
5 pursuant to this section.

6 G. Any person who files a report after the deadline  
7 imposed by the Lobbyist Regulation Act, or any person who files  
8 a false or incomplete report, shall be liable for and shall pay  
9 to the [~~secretary of~~] state ethics commission fifty dollars  
10 (\$50.00) per day for each regular working day after the time  
11 required for the filing of the report until the complete report  
12 is filed, up to a maximum of five thousand dollars (\$5,000).

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

17 SECTION 48. Section 10-15-1 NMSA 1978 (being Laws 1974,  
18 Chapter 91, Section 1, as amended) is amended to read:

19 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN  
20 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

21 A. In recognition of the fact that a representative  
22 government is dependent upon an informed electorate, it is  
23 declared to be public policy of this state that all persons are  
24 entitled to the greatest possible information regarding the  
25 affairs of government and the official acts of those officers

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1 and employees who represent them. The formation of public  
2 policy or the conduct of business by vote shall not be  
3 conducted in closed meeting. All meetings of any public body  
4 except the legislature and the courts shall be public meetings,  
5 and all persons so desiring shall be permitted to attend and  
6 listen to the deliberations and proceedings. Reasonable  
7 efforts shall be made to accommodate the use of audio and video  
8 recording devices.

9 B. All meetings of a quorum of members of any  
10 board, commission, administrative adjudicatory body or other  
11 policymaking body of any state agency, any agency or authority  
12 of any county, municipality, district or ~~[any]~~ political  
13 subdivision, held for the purpose of formulating public policy,  
14 including the development of personnel policy, rules,  
15 regulations or ordinances, discussing public business or ~~[for~~  
16 ~~the purpose of]~~ taking any action within the authority of or  
17 the delegated authority of any board, commission or other  
18 policymaking body are declared to be public meetings open to  
19 the public at all times, except as otherwise provided in the  
20 constitution of New Mexico or the Open Meetings Act. No public  
21 meeting once convened that is otherwise required to be open  
22 pursuant to the Open Meetings Act shall be closed or dissolved  
23 into small groups or committees for the purpose of permitting  
24 the closing of the meeting.

25 C. If otherwise allowed by law or rule of the

.183217.2

underscoring material = new  
~~[bracketed material] = delete~~

1 public body, a member of a public body may participate in a  
2 meeting of the public body by means of a conference telephone  
3 or other similar communications equipment when it is otherwise  
4 difficult or impossible for the member to attend the meeting in  
5 person, provided that each member participating by conference  
6 telephone can be identified when speaking, all participants are  
7 able to hear each other at the same time and members of the  
8 public attending the meeting are able to hear any member of the  
9 public body who speaks during the meeting.

10 D. Any meetings at which the discussion or adoption  
11 of any proposed resolution, rule, regulation or formal action  
12 occurs and at which a majority or quorum of the body is in  
13 attendance, and any closed meetings, shall be held only after  
14 reasonable notice to the public. The affected body shall  
15 determine at least annually in a public meeting what notice for  
16 a public meeting is reasonable when applied to that body. That  
17 notice shall include broadcast stations licensed by the federal  
18 communications commission and newspapers of general circulation  
19 that have provided a written request for such notice.

20 E. A public body may recess and reconvene a meeting  
21 to a day subsequent to that stated in the meeting notice if,  
22 prior to recessing, the public body specifies the date, time  
23 and place for continuation of the meeting and, immediately  
24 following the recessed meeting, posts notice of the date, time  
25 and place for the reconvened meeting on or near the door of the

.183217.2

underscoring material = new  
[bracketed material] = delete

1 place where the original meeting was held and in at least one  
2 other location appropriate to provide public notice of the  
3 continuation of the meeting. Only matters appearing on the  
4 agenda of the original meeting may be discussed at the  
5 reconvened meeting.

6 F. Meeting notices shall include an agenda  
7 containing a list of specific items of business to be discussed  
8 or transacted at the meeting or information on how the public  
9 may obtain a copy of such an agenda. Except in the case of an  
10 emergency, the agenda shall be available to the public at least  
11 twenty-four hours prior to the meeting. Except for emergency  
12 matters, a public body shall take action only on items  
13 appearing on the agenda. For purposes of this subsection, [~~an~~]  
14 "emergency" refers to unforeseen circumstances that, if not  
15 addressed immediately by the public body, will likely result in  
16 injury or damage to persons or property or substantial  
17 financial loss to the public body.

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 approved, amended or disapproved at the next meeting where a  
2 quorum is present. Minutes shall not become official until  
3 approved by the policymaking body.

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

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

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

22 (3) deliberations by a public body in  
23 connection with an administrative adjudicatory proceeding. For  
24 purposes of this paragraph, [~~an~~] "administrative adjudicatory  
25 proceeding" means a proceeding brought by or against a person

.183217.2

underscored material = new  
[bracketed material] = delete

1 before a public body in which individual legal rights, duties  
2 or privileges are required by law to be determined by the  
3 public body after an opportunity for a trial-type hearing.  
4 Except as otherwise provided in this section, the actual  
5 administrative adjudicatory proceeding at which evidence is  
6 offered or rebutted and any final action taken as a result of  
7 the proceeding shall occur in an open meeting;

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

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

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 shall be made in an open meeting;

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

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

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

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

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

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

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

.183217.2



underscored material = new  
[bracketed material] = delete

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; ~~and~~ 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 49.** Section 10-16-4.2 NMSA 1978 (being Laws  
21 2007, Chapter 362, Section 10) is amended to read:

22 "10-16-4.2. DISCLOSURE OF OUTSIDE EMPLOYMENT.--A public  
23 officer or employee shall disclose in writing to the supervisor  
24 of the officer or employee, or in the event there is no  
25 supervisor, to the ~~[secretary of]~~ state ethics commission, all

.183217.2

underscored material = new  
[bracketed material] = delete

1 employment engaged in by the officer or employee other than the  
2 employment with the state."

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

5 "10-16-11. CODES OF CONDUCT.--

6 A. By January 1, 1994, each elected statewide  
7 executive branch public officer shall adopt a general code of  
8 conduct for employees subject to ~~[his]~~ the officer's control.  
9 The New Mexico legislative council shall adopt a general code  
10 of conduct for all legislative branch employees. The general  
11 codes of conduct shall be based on the principles set forth in  
12 the Governmental Conduct Act.

13 B. Within thirty days after the general codes of  
14 conduct are adopted, they shall be given to and reviewed with  
15 all executive and legislative branch officers and employees.  
16 All new public officers and employees of the executive and  
17 legislative branches shall review the employees' general code  
18 of conduct prior to or at the time of being hired.

19 C. The head of every executive and legislative  
20 agency and institution of the state may draft a separate code  
21 of conduct for all public officers and employees in that agency  
22 or institution. The separate agency code of conduct shall  
23 prescribe standards, in addition to those set forth in the  
24 Governmental Conduct Act and the general codes of conduct for  
25 all executive and legislative branch public officers and

.183217.2

underscored material = new  
[bracketed material] = delete

1 employees, that are peculiar and appropriate to the function  
2 and purpose for which the agency or institution was created or  
3 exists. The separate codes, upon approval of the responsible  
4 executive branch public officer for executive branch public  
5 officers and employees or the New Mexico legislative council  
6 for legislative branch employees, govern the conduct of the  
7 public officers and employees of that agency or institution  
8 and, except for those public officers and employees removable  
9 only by impeachment, shall, if violated, constitute cause for  
10 dismissal, demotion or suspension. The head of each executive  
11 and legislative branch agency shall adopt ongoing education  
12 programs to advise public officers and employees about the  
13 codes of conduct. All codes shall be filed with the [~~secretary~~  
14 ~~of~~] state ethics commission and are open to public inspection.

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

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

20 SECTION 51. Section 10-16-13.1 NMSA 1978 (being Laws  
21 1993, Chapter 46, Section 35) is amended to read:

22 "10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

23 A. The [~~secretary of~~] state ethics commission shall  
24 advise and seek to educate all persons required to perform  
25 duties under the Governmental Conduct Act of those duties.

.183217.2

underscored material = new  
[bracketed material] = delete

1 This includes advising all those persons at least annually of  
2 that act's ethical principles.

3 B. The [~~secretary of~~] state ethics commission shall  
4 seek first to ensure voluntary compliance with the provisions  
5 of the Governmental Conduct Act. A person who violates that  
6 act unintentionally or for good cause shall be given ten days'  
7 notice to correct the matter. Referrals for civil enforcement  
8 of that act shall be pursued only after efforts to secure  
9 voluntary compliance with that act have failed."

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

12 "10-16-14. ENFORCEMENT PROCEDURES.--

13 A. The [~~secretary of~~] state ethics commission may  
14 refer suspected violations of the Governmental Conduct Act to  
15 the attorney general, district attorney or appropriate state  
16 agency or legislative body for enforcement. If a suspected  
17 violation involves the office of the [~~secretary of~~] state  
18 ethics commission, the attorney general may enforce that act.  
19 If a suspected violation involves the office of the attorney  
20 general, a district attorney may enforce that act.

21 B. Violation of the provisions of the Governmental  
22 Conduct Act by any legislator is grounds for discipline by the  
23 appropriate legislative body.

24 C. If the attorney general determines that there is  
25 sufficient cause to file a complaint against a public officer

.183217.2

underscored material = new  
[bracketed material] = delete

1 removable only by impeachment, ~~[he]~~ the attorney general shall  
2 refer the matter to the house of representatives of the  
3 legislature. If within thirty days after the referral the  
4 house of representatives has neither formally declared that the  
5 charges contained in the complaint are not substantial nor  
6 instituted hearings on the complaint, the attorney general  
7 shall make public the nature of the charges, but ~~[he]~~ the  
8 attorney general shall make clear that the merits of the  
9 charges have never been determined. Days during which the  
10 legislature is not in session shall not be included in  
11 determining the thirty-day period.

12 D. Violation of the provisions of the Governmental  
13 Conduct Act by any public officer or employee, other than those  
14 covered by Subsection C of this section, is grounds for  
15 discipline, including dismissal, demotion or suspension.  
16 Complaints against executive branch employees may be filed with  
17 the agency head and reviewed pursuant to the procedures  
18 provided in the Personnel Act. Complaints against legislative  
19 branch employees may be filed with and reviewed pursuant to  
20 procedures adopted by the New Mexico legislative council.  
21 Complaints against judicial branch employees may be filed and  
22 reviewed pursuant to the procedures provided in the judicial  
23 personnel rules.

24 E. Subject to the provisions of this section, the  
25 provisions of the Governmental Conduct Act may be enforced by

.183217.2

underscored material = new  
[bracketed material] = delete

1 the attorney general. Except as regards legislators or  
2 statewide elected officials, a district attorney in the county  
3 where a person who allegedly violated the provisions resides or  
4 where [~~a~~] an alleged violation occurred may also enforce that  
5 act. Enforcement actions may include seeking civil injunctive  
6 or other appropriate orders."

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

9 "10-16-18. ENFORCEMENT--CIVIL PENALTIES.--

10 A. If the [~~secretary of~~] state ethics commission  
11 reasonably believes that a person committed, or is about to  
12 commit, a violation of the Governmental Conduct Act, the  
13 [~~secretary of state~~] commission shall refer the matter to the  
14 attorney general or a district attorney for enforcement.

15 B. The attorney general or a district attorney may  
16 institute a civil action in district court if a violation has  
17 occurred or to prevent a violation of any provision of the  
18 Governmental Conduct Act. Relief may include a permanent or  
19 temporary injunction, a restraining order or any other  
20 appropriate order, including an order for a civil penalty of  
21 two hundred fifty dollars (\$250) for each violation not to  
22 exceed five thousand dollars (\$5,000)."

23 SECTION 54. Section 10-16A-3 NMSA 1978 (being Laws 1993,  
24 Chapter 46, Section 41, as amended) is amended to read:

25 "10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES

.183217.2

underscored material = new  
[bracketed material] = delete

1 AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON  
2 BALLOT OR APPOINTMENT.--

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

15 B. A state agency head or official whose  
16 appointment to a board or commission is subject to confirmation  
17 by the senate shall file with the [~~secretary of~~] state ethics  
18 commission a financial disclosure statement within thirty days  
19 of appointment and during the month of January every year  
20 thereafter that [~~he~~] the state agency head or official holds  
21 public office.

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

.183217.2

underscoring material = new  
~~[bracketed material]~~ = delete

1 (1) the full name, mailing address and  
2 residence address of each person covered in the disclosure  
3 statement, except the address of the spouse need not be  
4 disclosed; the name and address of the person's and spouse's  
5 employer and the title or position held; and a brief  
6 description of the nature of the business or occupation;

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

.183217.2



underscored material = new  
[bracketed material] = delete

1 Lobbyist Regulation Act, the names and addresses of all clients  
2 represented for lobbying purposes during those two years shall  
3 be disclosed;

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

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

11 (5) all memberships held by the reporting  
12 individual and [~~his~~] the reporting individual's spouse on  
13 boards of for-profit businesses in New Mexico;

14 (6) all New Mexico professional licenses held;

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

19 (8) each state agency, other than a court,  
20 before which a person covered in the disclosure statement  
21 represented or assisted clients in the course of [~~his~~] the  
22 person's employment during the prior calendar year; and

23 (9) a general category that allows the person  
24 filing the disclosure statement to provide whatever other  
25 financial interest or additional information the person

.183217.2

underscoring material = new  
[bracketed material] = delete

1 believes should be noted to describe potential areas of  
2 interest that should be disclosed.

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

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

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

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

22 H. For a state agency head or an official whose  
23 appointment to a board or commission is subject to confirmation  
24 by the senate, the filing of the financial disclosure statement  
25 required by this section is a condition of entering upon and

.183217.2

underscoring material = new  
[bracketed material] = delete

1 continuing in state employment or holding an appointed  
2 position."

3 SECTION 55. Section 10-16A-4 NMSA 1978 (being Laws 1993,  
4 Chapter 46, Section 42) is amended to read:

5 "10-16A-4. DISCLOSURES BY CERTAIN PUBLIC OFFICERS OR  
6 EMPLOYEES OF STATE AGENCIES--CONDITION OF EMPLOYMENT.--

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

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

.183217.2

underscored material = new  
[bracketed material] = delete

1 during the month of January every year thereafter.

2 C. The information on the disclosures shall be made  
3 available by the [~~secretary of~~] state ethics commission for  
4 inspection to any [~~citizen of this~~] resident of the state.

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

9 SECTION 56. Section 10-16A-5 NMSA 1978 (being Laws 1993,  
10 Chapter 46, Section 43) is amended to read:

11 "10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

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

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

.183217.2

underscored material = new  
[bracketed material] = delete

1           SECTION 57. Section 10-16A-6 NMSA 1978 (being Laws 1993,  
2 Chapter 46, Section 44, as amended) is amended to read:

3           "10-16A-6. INVESTIGATIONS--BINDING ARBITRATION--FINES--  
4 ENFORCEMENT.--

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

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

20           C. The arbitration decision shall be decided by a  
21 single arbitrator selected within ten days by the person  
22 against whom the penalty has been imposed from a list of five  
23 arbitrators provided by the [~~secretary of~~] state ethics  
24 commission. No arbitrator may be a person subject to the  
25 Financial Disclosure Act, Campaign Reporting Act or Lobbyist

.183217.2

underscoring material = new  
[bracketed material] = delete

1 Regulation Act. Arbitrators shall be considered to be  
2 independent contractors, not public officers or employees, and  
3 shall not be paid per diem and mileage.

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

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

24 F. The ~~[secretary of]~~ state ethics commission may  
25 refer a matter to the attorney general or a district attorney

.183217.2

underscoring material = new  
[bracketed material] = delete

1 for a civil injunctive or other appropriate order or  
2 enforcement."

3 SECTION 58. Section 10-16A-8 NMSA 1978 (being Laws 1995,  
4 Chapter 153, Section 25) is amended to read:

5 "10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--

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

11 B. The attorney general or a 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 Financial Disclosure Act. Relief may include a permanent or  
15 temporary injunction, a restraining order or any other  
16 appropriate order, including an order for a civil penalty of  
17 two hundred fifty dollars (\$250) for each violation not to  
18 exceed five thousand dollars (\$5,000)."

19 SECTION 59. Section 10-16B-3 NMSA 1978 (being Laws 2007,  
20 Chapter 226, Section 3) is amended to read:

21 "10-16B-3. LIMITATION ON GIFTS.--

22 A. A state officer or employee or a candidate for  
23 state office, or that person's family, shall not knowingly  
24 accept from a restricted donor, and a restricted donor shall  
25 not knowingly donate to a state officer or employee or a

.183217.2

underscored material = new  
[bracketed material] = delete

1 candidate for state office, or that person's family, a gift of  
2 a market value greater than two hundred fifty dollars (\$250).

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

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

16 SECTION 60. TEMPORARY PROVISION--REPORT ON EXTENSION OF  
17 STATE ETHICS COMMISSION JURISDICTION TO LOCAL GOVERNMENTS.--By  
18 January 1, 2013, the state ethics commission shall submit a  
19 report to the legislature and the governor regarding the  
20 extension of commission jurisdiction to elected and appointed  
21 officials and employees of political subdivisions of the state.  
22 The report shall include and make recommendations on:

23 A. a detailed plan formulated by the commission for  
24 implementation of an extension of its jurisdiction, including a  
25 proposed time line;

.183217.2



underscoring material = new  
~~[bracketed material]~~ = delete

1           B. the estimated number of additional employees and  
2 the amount and type of resources needed by the commission to  
3 carry out its powers and duties if its jurisdiction were  
4 extended;

5           C. estimated budget increases and the estimated  
6 annual budget for the commission if its jurisdiction were  
7 extended; and

8           D. any changes needed to existing law.

9           **SECTION 61. TEMPORARY PROVISION--TRANSFER OF PROPERTY,**  
10 **CONTRACTS AND REFERENCES IN LAW AND RULES.--**On January 1, 2012:

11           A. all functions, appropriations, money, records,  
12 property, equipment and supplies of the office of the secretary  
13 of state used in the administration of the following acts are  
14 transferred to the state ethics commission:

- 15                   (1) the Campaign Reporting Act;  
16                   (2) the Voter Action Act;  
17                   (3) the Lobbyist Regulation Act;  
18                   (4) the Governmental Conduct Act;  
19                   (5) the Financial Disclosure Act; and  
20                   (6) the Gift Act;

21           B. all contracts, grants, agreements and other  
22 obligations of the secretary of state relating to  
23 administration of the acts listed in Subsection A of this  
24 section are transferred to and binding on the state ethics  
25 commission;

.183217.2

underscored material = new  
[bracketed material] = delete

1 C. all references in law to the secretary of  
2 state relating to administration of the acts listed in  
3 Subsection A of this section shall be deemed to be references  
4 to the state ethics commission; and

5 D. all rules of the secretary of state pertaining  
6 to administration of the acts listed in Subsection A of this  
7 section shall be considered rules of the state ethics  
8 commission.

9 SECTION 62. SEVERABILITY.--If any part or application of  
10 this act is held invalid, the remainder or its application to  
11 other situations or persons shall not be affected.

12 SECTION 63. APPLICABILITY.--The provisions of the State  
13 Ethics Commission Act apply to conduct that occurs on or after  
14 July 1, 2011.

15 SECTION 64. EFFECTIVE DATE.--

16 A. The effective date of the provisions of Sections  
17 1 through 7, 12 through 16, 48 and 60 through 64 of this act is  
18 July 1, 2011.

19 B. The effective date of the provisions of Sections  
20 8 through 11, 17 through 47 and 49 through 59 of this act is  
21 January 1, 2012.