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HOUSE BILL 115

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Brian Egolf

AN ACT

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

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

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

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

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

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

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

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

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

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

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

24 G. "government contractor" means a person who has a  
25 contract with a state agency or who has submitted a competitive

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1 sealed proposal or competitive sealed bid for a contract with a  
2 state agency;

3 H. "legislative body" means the house of  
4 representatives or the senate;

5 I. "lobbying" means attempting to influence:

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

11 (2) an official action;

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

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

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

24 (3) a state employee or an employee of a  
25 political subdivision of the state, specifically designated by

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

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

11 (5) a legislator or legislative staff member;

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

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

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

24 K. "official action" means a decision, action or  
25 nonaction of a state official or state agency in a rulemaking

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1 or other matter, except an adjudicatory proceeding;

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

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

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

15 O. "state employee" means an employee of a state  
16 agency; and

17 P. "state official" means a person elected to an  
18 office of the executive or legislative branch of the state or a  
19 person appointed to a state agency.

20 SECTION 3. [NEW MATERIAL] STATE ETHICS COMMISSION  
21 CREATED--MEMBERSHIP--TERMS--REMOVAL.--

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

25 (1) five commissioners appointed by the

1 governor, no more than three of whom shall be of the same  
2 political party and at least one commissioner shall be  
3 appointed from each congressional district;

4 (2) one commissioner appointed by the  
5 president pro tempore of the senate;

6 (3) one commissioner appointed by the minority  
7 floor leader of the senate;

8 (4) one commissioner appointed by the speaker  
9 of the house of representatives;

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

12 (6) two commissioners appointed by the chief  
13 justice of the supreme court, who shall be district court  
14 judges and who shall not be of the same political party and  
15 shall not be appointed from the same congressional district.

16 B. The appointing authorities shall give due regard  
17 to the cultural diversity of the state and to achieving  
18 geographical representation from across the state. No more  
19 than five commissioners shall be registered members of the same  
20 political party.

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

23 D. Commissioners shall be appointed for staggered  
24 terms of four years beginning July 1, 2016. The initial  
25 commissioners shall draw lots to determine which three

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

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

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

16 G. The commission shall elect a chair, who shall be  
17 one of the governor's appointees, and a vice chair and other  
18 officers it deems necessary.

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

22 I. 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

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1 of the commission. The 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) not have changed political party  
12 affiliation for at least one year prior to appointment.

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

20 C. During a commissioner's tenure, a commissioner  
21 shall not:

- 22 (1) seek or hold an office in a political  
23 party;
- 24 (2) seek or hold an elective public office or  
25 an appointed public position, except for a commissioner



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1 appointed by the chief justice of the supreme court in  
2 continuing to hold the office of district court judge; or  
3 (3) be a state employee, government contractor  
4 or lobbyist.

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

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

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

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

16 (3) accept employment or otherwise provide  
17 services to a respondent unless the commissioner accepted  
18 employment or provided services prior to the filing of a  
19 complaint against the respondent.

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

22 A. The commission shall:

23 (1) receive and investigate complaints  
24 alleging ethics violations against state officials, state  
25 employees, government contractors and lobbyists;

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

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

5 (a) the Campaign Reporting Act;

6 (b) the Voter Action Act;

7 (c) the Lobbyist Regulation Act;

8 (d) the Governmental Conduct Act;

9 (e) the Financial Disclosure Act; and

10 (f) the Gift Act;

11 (4) develop, adopt and promulgate the rules  
12 necessary to implement and administer the provisions of the  
13 State Ethics Commission Act;

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

17 (6) draft a proposed code of ethics for state  
18 officials and state employees and submit the proposed code to  
19 each elected state official and state agency for adoption;

20 (7) compile, adopt, publish and make available  
21 to all state officials, state employees, government contractors  
22 and lobbyists an ethics guide that clearly and plainly explains  
23 the ethics requirements set forth in state law, including those  
24 that relate to conducting business with the state;

25 (8) offer annual ethics training to state

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1 officials, state employees, government contractors, lobbyists  
2 and other interested persons;

3 (9) employ an executive director, who shall be  
4 an attorney; and

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

9 B. The commission may:

10 (1) initiate complaints alleging ethics  
11 violations against state officials, state employees, government  
12 contractors and lobbyists;

13 (2) issue subpoenas requiring the attendance  
14 of witnesses or the production of books, records, documents or  
15 other evidence relevant to an investigation; and

16 (3) issue advisory opinions to state  
17 officials, state employees, government contractors and  
18 lobbyists in accordance with the provisions of the State Ethics  
19 Commission Act.

20 SECTION 6. [NEW MATERIAL] EXECUTIVE DIRECTOR--  
21 APPOINTMENT--DUTIES AND POWERS.--

22 A. The commission shall appoint an executive  
23 director who shall be knowledgeable about state ethics laws and  
24 who shall be appointed without reference to party affiliation  
25 and solely on the grounds of fitness to perform the duties of

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1 the office. The director shall hold office from the date of  
2 appointment until such time as the director is removed by the  
3 commission.

4 B. The director shall:

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

7 (2) perform investigations on behalf of the  
8 commission;

9 (3) bring complaints and investigation results  
10 before the commission for consideration;

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

13 (5) make recommendations to the commission of  
14 proposed rules or legislative changes needed to provide better  
15 administration of the State Ethics Commission Act; and

16 (6) perform other duties as assigned by the  
17 commission.

18 C. The director may:

19 (1) hire a general counsel for the commission  
20 and additional personnel as may be necessary to carry out the  
21 duties of the commission;

22 (2) enter into contracts and agreements on  
23 behalf of the commission; and

24 (3) administer oaths and take depositions  
25 subject to the Rules of Civil Procedure for the District

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1 Courts.

2 D. For a period of one calendar year immediately  
3 following the director's employment with the commission, the  
4 director shall not:

5 (1) seek or hold an elective public office, an  
6 appointed public position or public employment;

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

9 (3) accept employment or otherwise provide  
10 services to a respondent, unless the director accepted  
11 employment or provided services prior to the filing of a  
12 complaint against the respondent.

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

14 A. A commissioner shall recuse from and not  
15 participate in a commission proceeding in which the  
16 commissioner has a conflict of interest. The commissioner  
17 shall state the reason for the recusal.

18 B. If the propriety of a commissioner's  
19 participation in a particular matter is questioned on the  
20 grounds that the commissioner has a conflict of interest, the  
21 commission may disqualify that commissioner from participation  
22 in a commission proceeding.

23 C. A recused or disqualified commissioner shall not  
24 participate in any proceeding related to the matter from which  
25 the commissioner is recused or disqualified, and the

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1 commissioner shall be excused from that portion of a meeting at  
2 which the matter is discussed.

3 D. If four or more commissioners have recused  
4 themselves or are disqualified from participating in a  
5 proceeding, the remaining commissioners shall appoint temporary  
6 commissioners to participate in that proceeding. Appointments  
7 of temporary commissioners shall be made by a majority vote of  
8 the remaining commissioners in accordance with the political  
9 party affiliation and geographical representation requirements  
10 and the qualifications of Sections 3 and 4 of the State Ethics  
11 Commission Act.

12 E. The commission shall promulgate rules for the  
13 recusal and disqualification of members and for the appointment  
14 of temporary commissioners.

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

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

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

20 (2) identify a specific set of circumstances  
21 involving an ethics issue;

22 (3) be issued within sixty days of receipt of  
23 the request unless the commission notifies the requester of a  
24 delay in issuance and continues to notify the requester every  
25 thirty days until the advisory opinion is issued; and

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

3 B. A request for an advisory opinion is  
4 confidential and not subject to the provisions of the  
5 Inspection of Public Records Act.

6 C. Unless amended or revoked, an advisory opinion  
7 shall be binding on the commission in any subsequent commission  
8 proceedings concerning a person who acted in good faith and in  
9 reasonable reliance on the advisory opinion.

10 SECTION 9. [NEW MATERIAL] COMPLAINTS--INVESTIGATIONS--  
11 SUBPOENAS.--

12 A. A complaint of an alleged ethics violation  
13 committed by a state official, state employee, government  
14 contractor or lobbyist may be:

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

17 (2) initiated by the commission upon receipt  
18 of evidence deemed sufficient by the commission.

19 B. The complainant shall set forth in detail the  
20 specific charges against the state official, state employee,  
21 government contractor or lobbyist and the factual allegations  
22 that support the charges and shall sign the complaint under  
23 penalty of false statement. The complainant shall submit any  
24 evidence the complainant has that supports the complaint.

25 Evidence may include documents, records and names of witnesses.

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1 The commission shall prescribe the forms on which complaints  
2 are to be filed.

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

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

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

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

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

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1 records, documents and other evidence reasonably related to the  
2 complaint. All testimony in an investigation shall be under  
3 oath, and the respondent shall have the right to be represented  
4 by legal counsel. If the director determines that a subpoena  
5 is necessary to obtain the testimony of any person or the  
6 production of books, records, documents or other evidence, the  
7 director shall request that the commission issue an appropriate  
8 subpoena.

9 H. The commission may issue subpoenas for the  
10 attendance and examination of witnesses or for the production  
11 of books, records, documents, things or other evidence  
12 reasonably related to an investigation. A subpoena shall be  
13 signed by the chair of the commission and shall command the  
14 person to whom it is directed to attend and give testimony or  
15 to produce and permit the inspection of books, documents,  
16 records, things or other evidence. A subpoena shall state the  
17 general nature of the investigation and shall describe with  
18 reasonable specificity the nature of the information to be  
19 produced, the time and place where the information shall be  
20 produced and the consequences of failure to obey the subpoena.  
21 After service of a subpoena, if a person neglects or refuses to  
22 comply with the subpoena, the commission may apply to a  
23 district court for an order enforcing the subpoena and  
24 compelling compliance.

25 I. A state official or state employee who is a

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1 respondent shall be entitled to representation by the risk  
2 management division of the general services department;  
3 provided, however, that if the respondent is found to have  
4 committed an ethics violation, the respondent shall reimburse  
5 the division for the respondent's equitable share of reasonable  
6 attorney fees and costs. If the respondent was represented by  
7 an attorney employee of the risk management division, the  
8 division shall be reimbursed at the full cost incurred by the  
9 division, including benefits and taxes, for employing the  
10 attorney for the hours the attorney provided on the case.

11 SECTION 10. [NEW MATERIAL] STATUS OF INVESTIGATION--TIME  
12 LIMITATIONS.--

13 A. If the commission has not scheduled a hearing  
14 concerning the disposition of a complaint within ninety days  
15 after the complaint is received or initiated by the commission,  
16 the director shall, as soon as practicable, report to the  
17 commission on the progress and status of the investigation.  
18 The commission may dismiss the complaint or instruct the  
19 director to continue investigating the complaint. Unless the  
20 commission dismisses the complaint, the director shall report  
21 to the commission every ninety days thereafter on the progress  
22 and status of the investigation.

23 B. Upon dismissal or a decision to continue an  
24 investigation of a complaint, the commission shall notify the  
25 respondent in writing of its action. The commission shall also

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1 notify the complainant of the dismissal of a complaint. The  
2 commission shall not publicly disclose its action or  
3 notification except upon the request of the respondent.

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

6 A. The director shall provide a written report of  
7 the investigation to the commission and to the respondent. The  
8 director shall provide the respondent with reasonable written  
9 notice of the date, time and place of the commission hearing.

10 B. At the hearing, the commission has the power to  
11 administer oaths. One of the commissioners appointed by the  
12 chief justice of the supreme court shall preside over the  
13 hearing. The respondent has the right to be represented by  
14 counsel and to present evidence and testimony and examine and  
15 cross-examine witnesses.

16 C. After the hearing, if the commission finds by  
17 clear and convincing evidence that the respondent's conduct  
18 constituted an ethics violation, the commission shall issue a  
19 written report that shall include findings of fact and  
20 conclusions of law. If the respondent is a state official or  
21 state employee, the written report may include a public  
22 reprimand or censure regarding the respondent's behavior or  
23 recommendations for disciplinary action against the respondent.

24 D. The commission shall publicly disclose a report  
25 issued pursuant to Subsection C of this section and provide it,

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1 along with all evidence collected during its investigation, to  
2 the respondent, the attorney general and the:

3 (1) appropriate legislative body if the  
4 respondent is a member of the legislature;

5 (2) house of representatives if the respondent  
6 is a state official elected to an office of the executive  
7 branch;

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

10 (4) appropriate state agency if the respondent  
11 is a state employee;

12 (5) state agency with which the respondent has  
13 a government contract if the respondent is a government  
14 contractor; or

15 (6) respondent's employer and clients if the  
16 respondent is a lobbyist.

17 E. If, after the hearing, the commission does not  
18 find by clear and convincing evidence that the respondent's  
19 conduct constituted an ethics violation, the commission shall  
20 dismiss the complaint and provide notice of the dismissal to  
21 the respondent and complainant no later than five days after  
22 the finding is made. A notice issued pursuant to this  
23 subsection shall not be public except upon the request of the  
24 respondent.

25 F. Notwithstanding the provisions of the Open

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1 Meetings Act, commission hearings held pursuant to this section  
2 are closed to the public. The commission shall promulgate  
3 rules establishing procedures for hearings.

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

5 All complaints, reports, files, records and communications  
6 collected or generated by the commission or its director that  
7 pertain to alleged ethics violations are confidential and not  
8 subject to the provisions of the Inspection of Public Records  
9 Act. Such complaints, reports, files, records or  
10 communications shall not be disclosed unless:

11 A. disclosure is required pursuant to the  
12 provisions of the State Ethics Commission Act;

13 B. they are offered into evidence at a judicial,  
14 legislative or administrative proceeding;

15 C. disclosure is required by law or ordered by a  
16 court; or

17 D. the respondent files with the commission a  
18 written waiver of confidentiality.

19 SECTION 13. [NEW MATERIAL] CRIMINAL VIOLATIONS--

20 REFERRAL.--If the commission finds at any time that the  
21 respondent's conduct may amount to a criminal violation, the  
22 commission shall immediately refer the matter to the attorney  
23 general or an appropriate district attorney. The commission  
24 shall provide the attorney general or district attorney with  
25 all evidence collected during its investigation that may be

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1 used in a criminal proceeding. Nothing in this section  
2 prevents the commission from taking any action otherwise  
3 authorized by the State Ethics Commission Act or deciding to  
4 hold a matter in abeyance pending resolution of any criminal  
5 charges.

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

7 A. The commission shall not accept or consider a  
8 complaint unless the complaint is filed or initiated within  
9 three years from the date on which the alleged conduct  
10 occurred.

11 B. The commission shall not take action on a  
12 complaint filed or initiated against a candidate for a public  
13 office covered by the State Ethics Commission Act on or after  
14 the filing date for a primary election through election day of  
15 the general election, except in accordance with the provisions  
16 of the Campaign Reporting Act or the Voter Action Act. The  
17 commission shall dismiss complaints that are frivolous,  
18 unfounded or outside the jurisdiction of the commission. A  
19 complainant shall be notified of this provision and shall be  
20 notified that the complainant may refer any allegations of  
21 criminal conduct to the attorney general or appropriate  
22 district attorney. The respondent shall be notified that a  
23 complaint has been filed and of the specific allegations in the  
24 complaint.

25 C. The commission shall not investigate allegations

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1 of misconduct involving campaign advertisements.

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

3 A. A person shall not take or threaten to take any  
4 retaliatory, disciplinary or other adverse action against  
5 another person who in good faith:

6 (1) files a complaint with the commission  
7 alleging an ethics violation against a state official, state  
8 employee, government contractor or lobbyist; or

9 (2) provides testimony, records, documents or  
10 other information to the commission during an investigation or  
11 at a hearing conducted pursuant to the State Ethics Commission  
12 Act.

13 B. Nothing in the State Ethics Commission Act  
14 precludes civil actions or criminal sanctions for libel,  
15 slander or other civil or criminal claims against a person who  
16 files a false claim under that act.

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

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

23 B. In addition to a penalty imposed pursuant to  
24 Subsection A of this section, a court may impose a civil  
25 penalty not to exceed twenty-five thousand dollars (\$25,000)

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1 for each violation of Section 12 of the State Ethics Commission  
2 Act.

3 C. The provisions of this section apply to a  
4 commissioner, the director and commission employees or agents  
5 and also apply to a complainant from the time the complaint is  
6 filed until it is resolved and a final determination is made.

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

11 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting  
12 Act:

13 A. "advertising campaign" means an advertisement or  
14 series of advertisements used for a political purpose and  
15 disseminated to the public either in print, by radio or  
16 television broadcast or by any other electronic means,  
17 including telephonic communications, and may include direct or  
18 bulk mailings of printed materials;

19 B. "anonymous contribution" means a contribution  
20 the contributor of which is unknown to the candidate or the  
21 candidate's agent or the political committee or its agent who  
22 accepts the contribution;

23 C. "bank account" means an account in a financial  
24 institution located in New Mexico;

25 D. "campaign committee" means two or more persons



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1 authorized by a candidate to raise, collect or expend  
2 contributions on the candidate's behalf for the purpose of  
3 electing the candidate to office;

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

8 (1) for a nonstatewide office, has received  
9 contributions or made expenditures of one thousand dollars  
10 (\$1,000) or more or authorized another person or campaign  
11 committee to receive contributions or make expenditures of one  
12 thousand dollars (\$1,000) or more for the purpose of seeking  
13 election to the office; or

14 (2) for a statewide office, has received  
15 contributions or made expenditures of two thousand five hundred  
16 dollars (\$2,500) or more or authorized another person or  
17 campaign committee to receive contributions or make  
18 expenditures of two thousand five hundred dollars (\$2,500) or  
19 more for the purpose of seeking election to the office or for  
20 candidacy exploration purposes in the years prior to the year  
21 of the election;

22 F. "contribution" means a gift, subscription, loan,  
23 advance or deposit of money or other thing of value, including  
24 the estimated value of an in-kind contribution, that is made or  
25 received for a political purpose, including payment of a debt

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1 incurred in an election campaign, but "contribution" does not  
2 include the value of services provided without compensation or  
3 unreimbursed travel or other personal expenses of individuals  
4 who volunteer a portion or all of their time on behalf of a  
5 candidate or political committee, nor does it include the  
6 administrative or solicitation expenses of a political  
7 committee that are paid by an organization that sponsors the  
8 committee;

9 G. "deliver" or "delivery" means to deliver by  
10 certified or registered mail, telecopier, electronic  
11 transmission or facsimile or by personal service;

12 H. "election" means any primary, general or  
13 statewide special election in New Mexico and includes county  
14 and judicial retention elections but excludes municipal, school  
15 board and special district elections;

16 I. "election year" means an even-numbered year in  
17 which an election covered by the Campaign Reporting Act is  
18 held;

19 J. "expenditure" means a payment, transfer or  
20 distribution or obligation or promise to pay, transfer or  
21 distribute any money or other thing of value for a political  
22 purpose, including payment of a debt incurred in an election  
23 campaign or pre-primary convention, but does not include the  
24 administrative or solicitation expenses of a political  
25 committee that are paid by an organization that sponsors the

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1 committee;

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

3 L. "political committee" means two or more persons,  
4 other than members of a candidate's immediate family or  
5 campaign committee or a husband and wife who make a  
6 contribution out of a joint account, who are selected,  
7 appointed, chosen, associated, organized or operated primarily  
8 for a political purpose; and "political committee" includes:

9 (1) political parties, political action  
10 committees or similar organizations composed of employees or  
11 members of any corporation, labor organization, trade or  
12 professional association or any other similar group that  
13 raises, collects, expends or contributes money or any other  
14 thing of value for a political purpose;

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

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

21 M. "political purpose" means influencing or  
22 attempting to influence an election or pre-primary convention,  
23 including a constitutional amendment or other question  
24 submitted to the voters;

25 N. "prescribed form" means a form or electronic

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1 format prepared and prescribed by the [~~secretary of~~] state  
2 ethics commission;

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

6 P. "public official" means a person elected to an  
7 office in an election covered by the Campaign Reporting Act or  
8 a person appointed to an office that is subject to an election  
9 covered by that act; and

10 Q. "reporting individual" means every public  
11 official, candidate or treasurer of a campaign committee and  
12 every treasurer of a political committee."

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

15 "1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--  
16 DISCLOSURES.--

17 A. It is unlawful for [~~any~~] a political committee  
18 that receives, contributes or expends in excess of five hundred  
19 dollars (\$500) in any calendar year to continue to receive or  
20 make [~~any~~] a contribution or expenditure for a political  
21 purpose unless that political committee appoints and maintains  
22 a treasurer and registers with the [~~secretary of~~] state ethics  
23 commission.

24 B. A political committee shall register with the  
25 [~~secretary of~~] state ethics commission within ten days of

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1 receiving, contributing or expending in excess of five hundred  
2 dollars (\$500) by paying a filing fee of fifty dollars (\$50.00)  
3 and filing a statement of organization under oath on a  
4 prescribed form showing:

5 (1) the full name of the political committee,  
6 which shall fairly and accurately reflect the identity of the  
7 committee, including any sponsoring organization, and its  
8 address;

9 (2) a statement of the purpose for which the  
10 political committee was organized;

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

13 (4) the names and addresses of the officers of  
14 the committee; and

15 (5) an identification of the bank used by the  
16 committee for all expenditures or contributions made or  
17 received.

18 C. The provisions of this section do not apply to a  
19 political committee that is located in another state and is  
20 registered with the federal election commission if the  
21 political committee reports on federal reporting forms filed  
22 with the federal election commission all expenditures for and  
23 contributions made to reporting individuals in New Mexico and  
24 files with the ~~[secretary of]~~ state ethics commission,  
25 according to the schedule required for the filing of forms with

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1 the federal election commission, a copy of either the full  
2 report or the cover sheet and the portions of the federal  
3 reporting forms that contain the information on expenditures  
4 for and contributions made to reporting individuals in New  
5 Mexico."

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

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

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

23 "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER.--  
24 A. Except for those candidates and public  
25 ~~[officals]~~ officials who file a statement of no activity, all

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1 reporting individuals shall file with the proper filing officer  
2 a report of expenditures and contributions on a prescribed  
3 form.

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

7 C. The proper filing officer for filing reports of  
8 expenditures and contributions or statements of no activity is  
9 the [~~secretary of~~] state ethics commission for all candidates  
10 and public officials.

11 D. The [~~secretary of~~] state ethics commission shall  
12 develop or contract for services to develop an electronic  
13 reporting system for receiving and for public inspection of  
14 reports of expenditures and contributions and statements of no  
15 activity to the Campaign Reporting Act. The electronic  
16 reporting system shall:

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

20 (2) provide for encrypted transmissions."

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

23 "1-19-28. FURNISHING REPORT FORMS--POLITICAL COMMITTEES--  
24 CANDIDATES.--

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

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1 annually shall furnish to all reporting individuals the  
2 prescribed forms for the reporting of expenditures and  
3 contributions, supplemental reports and a statement of no  
4 activity and the specific dates the reports and statement are  
5 due.

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

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

18 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

19 A. Except as otherwise provided in this section,  
20 all reporting individuals shall file with the proper filing  
21 officer by 5:00 p.m. on the second Monday in April and October  
22 a report of all expenditures made and contributions received on  
23 or before the first Monday in those months and not previously  
24 reported. The report shall be filed biannually until the  
25 reporting individual's bank account has been closed and the

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1 other provisions specified in Subsection F of this section have  
2 been satisfied.

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

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

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

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

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

24 (5) by 5:00 p.m. on the Thursday before a  
25 primary, general or statewide special election, a report of all

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

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

20 C. If a candidate or public official has not  
21 received any contributions and has not made any expenditures  
22 since the candidate's or official's last report was filed with  
23 the proper filing officer, the candidate or official shall only  
24 be required to file a statement of no activity, which shall not  
25 be required to be notarized, in lieu of a full report when that

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1 report would otherwise be due and shall not be required to file  
2 a full report until the next required filing date occurring  
3 after an expenditure is made or a contribution is received.

4 D. In an election year, a public official who is  
5 not a candidate shall file biannual reports of expenditures  
6 made and contributions received or statements of no activity in  
7 accordance with the schedule provided for in Subsection A of  
8 this section.

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

12 F. Except for candidates and public officials who  
13 file a statement of no activity, each reporting individual  
14 shall file a report of expenditures and contributions pursuant  
15 to the filing schedules set forth in this section, regardless  
16 of whether any expenditures were made or contributions were  
17 received during the reporting period. Reports shall be  
18 required until the reporting individual delivers a report to  
19 the proper filing officer stating that:

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

24 G. Each treasurer of a political committee shall  
25 file a report of expenditures and contributions pursuant to the

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1 filing schedules set forth in this section until the treasurer  
2 files a report that affirms that the committee has dissolved or  
3 no longer exists and that its bank account has been closed.

4 H. A reporting individual who is a candidate within  
5 the meaning of the Campaign Reporting Act because of the amount  
6 of contributions the candidate receives or expenditures the  
7 candidate makes and who does not ultimately file a declaration  
8 of candidacy or a nominating petition with the proper filing  
9 officer and does not file a statement of no activity shall file  
10 biannual reports in accordance with Subsection A of this  
11 section.

12 I. Reports required by this section shall be  
13 subscribed and sworn to by the candidate or the treasurer of  
14 the political committee. A report filed electronically shall  
15 be electronically authenticated by the candidate or the  
16 treasurer of the political committee using an electronic  
17 signature in conformance with the Electronic Authentication of  
18 Documents Act and the Uniform Electronic Transactions Act. For  
19 the purposes of the Campaign Reporting Act, a report that is  
20 electronically authenticated in accordance with the provisions  
21 of this subsection shall be deemed to have been subscribed and  
22 sworn to by the candidate or the treasurer of the political  
23 committee who was required to file the report.

24 J. Reports required by this section shall be filed  
25 electronically by all reporting individuals.

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1           K. Reporting individuals may apply to the  
2     ~~[secretary of]~~ state ethics commission for exemption from  
3     electronic filing in case of hardship, which shall be defined  
4     by the ~~[secretary of state]~~ commission."

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

7           "1-19-31. CONTENTS OF REPORT.--

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

12                   (1) the name and address of the person or  
13    entity to whom an expenditure was made or from whom a  
14    contribution was received, except as provided for anonymous  
15    contributions or contributions received from special events as  
16    provided in Section 1-19-34 NMSA 1978; provided that for  
17    contributors, the name of the entity or the first and last  
18    names of any individual shall be the full name of the entity or  
19    individual, and initials only shall not constitute a full name  
20    unless that is the complete legal name;

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

24                   (3) the amount of the expenditure or  
25    contribution or value thereof;

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- 1 (4) the purpose of the expenditure; and  
2 (5) the date the expenditure was made or the  
3 contribution was received.

4 B. Each report shall contain an opening and  
5 closing cash balance for the bank account maintained by the  
6 reporting individual during the reporting period and the name  
7 of the financial institution.

8 C. Each report shall specify the amount of each  
9 unpaid debt and the identity of the person to whom the debt is  
10 owed."

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

13 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

14 A. Each of the following documents is a public  
15 record open to public inspection during regular office hours in  
16 the office in which the document was filed or from which the  
17 document was issued:

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

19 (2) a report of expenditures and  
20 contributions;

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

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

25 (5) an arbitration decision issued by an

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1 arbitration panel and filed with the [~~secretary of~~] state  
2 ethics commission.

3 B. Each public record described in Subsection A of  
4 this section shall be retained by the state for five years and  
5 may be destroyed five years after the date of filing unless a  
6 legal action or prosecution is pending that requires the  
7 preservation of the public record.

8 C. The [~~secretary of~~] state ethics commission shall  
9 provide for electronic access to reports of expenditures and  
10 contributions and statements of [~~exception~~] no activity  
11 submitted electronically by reporting individuals. Electronic  
12 access shall include access via the internet and shall be in an  
13 easily searchable format."

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

16 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF  
17 REPORTS.--

18 A. The [~~secretary of~~] state ethics commission shall  
19 conduct a thorough examination of at least ten percent of all  
20 reports filed during a year by reporting individuals, selected  
21 at random at least forty days after the general election and  
22 ten days after the April reports are filed in a non-election  
23 year, to determine compliance with the provisions of the  
24 Campaign Reporting Act. The examination may include an  
25 investigation of any discrepancies, including a cross-reference

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1 to reports filed by any other reporting individual. A  
2 reporting individual shall be notified in writing if a  
3 discrepancy is found in the report filed and shall be permitted  
4 to file a written explanation for the discrepancy within ten  
5 working days of the date of the notice. The notice, penalty  
6 and arbitration provisions set forth in Section 1-19-34.4 NMSA  
7 1978 shall apply to examinations conducted under this section.

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

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

20 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--  
21 INVESTIGATIONS--BINDING ARBITRATION--REFERRALS FOR  
22 ENFORCEMENT.--

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

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1 includes advising all known reporting individuals at least  
2 annually of that act's deadlines for submitting required  
3 reports and statements of exception. The [~~secretary of state~~]  
4 commission, in consultation with the attorney general, shall  
5 issue advisory opinions, when requested in writing to do so, on  
6 matters concerning that act. All prescribed forms prepared  
7 shall be clear and easy to complete.

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

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

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1 reporting individual that [~~he~~] the individual has ten working  
2 days from the date of the letter to correct the matter and to  
3 provide a written explanation, under penalty of perjury,  
4 stating any reason why the violation occurred. If a timely  
5 explanation is filed and the [~~secretary of state~~] commission  
6 determines that good cause exists to waive the fine imposed,  
7 the [~~secretary of state~~] commission may by a written notice of  
8 final action partially or fully waive any fine imposed for any  
9 late, incomplete or false report or statement of [~~exception~~] no  
10 activity. A written notice of final action shall be sent by  
11 certified mail.

12 D. Upon receipt of the notice of final action, the  
13 person against whom the penalty has been imposed may protest  
14 the [~~secretary of state's~~] state ethics commission's  
15 determination, including an advisory opinion, by submitting on  
16 a prescribed form a written request for binding arbitration to  
17 the [~~secretary of state~~] commission within ten working days of  
18 the date of the notice of final action. Any fine imposed shall  
19 be due and payable within ten working days of the date of  
20 notice of final action. No additional fine shall accrue  
21 pending the issuance of the arbitration decision. Fines paid  
22 pursuant to a notice of final action that are subsequently  
23 reduced or dismissed shall be reimbursed with interest within  
24 ten working days after the filing of the arbitration decision  
25 with the [~~secretary of state~~] commission. Interest on the

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1 reduced or dismissed portion of the fine shall be the same as  
2 the rate of interest earned by the [~~secretary of state's~~]  
3 commission's escrow account to be established by the department  
4 of finance and administration.

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

15 F. The arbitrator shall conduct the hearing within  
16 thirty days of the request for arbitration. The arbitrator may  
17 impose any penalty the [~~secretary of~~] state ethics commission  
18 is authorized to impose. The arbitrator shall state the  
19 reasons for [~~his~~] the arbitrator's decision in a written  
20 document that shall be a public record. The decision shall be  
21 final and binding. The decision shall be issued and filed with  
22 the [~~secretary of state~~] commission within thirty days of the  
23 conclusion of the hearing. Unless otherwise provided for in  
24 this section or by rule or regulation adopted by the [~~secretary~~  
25 ~~of state~~] commission, the procedures for the arbitration shall

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1 be governed by the Uniform Arbitration Act. No arbitrator  
2 shall be subject to liability for actions taken pursuant to  
3 this section.

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

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

10 "1-19-34.6. CIVIL PENALTIES.--

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

16 B. The attorney general or district attorney may  
17 institute a civil action in district court for any violation of  
18 the Campaign Reporting Act or to prevent a violation of that  
19 act that involves an unlawful solicitation or the making or  
20 acceptance of an unlawful contribution. An action for relief  
21 may include a permanent or temporary injunction, a restraining  
22 order or any other appropriate order, including a civil penalty  
23 of two hundred fifty dollars (\$250) for each violation not to  
24 exceed five thousand dollars (\$5,000), and forfeiture of any  
25 contribution received as a result of an unlawful solicitation

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1 or unlawful contribution. Each unlawful solicitation and each  
2 unlawful contribution made or accepted shall be deemed a  
3 separate violation of the Campaign Reporting Act.

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

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

15 "1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES--  
16 POLITICAL COMMITTEES.--

17 A. The following contributions by the following  
18 persons are prohibited:

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

21 (a) candidate for nonstatewide office,  
22 including the candidate's campaign committee, in an amount that  
23 will cause that person's total contributions to the candidate  
24 to exceed two thousand three hundred dollars (\$2,300) during  
25 the primary election or two thousand three hundred dollars

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1 (\$2,300) during the general election;

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

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

13 (2) from a political committee to:

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

20 (b) another political committee in an  
21 amount that will cause that political committee's total  
22 contributions to the political committee to exceed five  
23 thousand dollars (\$5,000) during a primary election or five  
24 thousand dollars (\$5,000) during a general election.

25 B. All contributions made by a person to a

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1 candidate, either directly or indirectly, including  
2 contributions that are in any way earmarked or otherwise  
3 directed through another person to a candidate, shall be  
4 treated as contributions from the person to that candidate.

5 C. A person, including a political committee, shall  
6 not knowingly accept or solicit a contribution, directly or  
7 indirectly, including a contribution earmarked or otherwise  
8 directed or coordinated through another person, including a  
9 political committee, that violates the contribution limits  
10 provided for in this section.

11 D. On the day after each general election, the  
12 contribution amounts provided in Subsection A of this section  
13 shall be increased by the percentage of the preceding two  
14 calendar [~~year's~~] years' increase of the consumer price index  
15 for all urban consumers, United States city average for all  
16 items, published by the United States department of labor. The  
17 amount of the increase shall be rounded to the nearest multiple  
18 of one hundred dollars (\$100). The [~~secretary of~~] state ethics  
19 commission shall publish by October 1 before each general  
20 election the adjusted contribution limits that shall take  
21 effect the day after the following general election.

22 E. All contributions in excess of the limits  
23 imposed by the provisions of this section shall be deposited in  
24 the public election fund upon a finding by the [~~secretary of~~]  
25 state ethics commission that the contribution limits have been

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1 exceeded.

2 F. The limitation on contributions to a candidate  
3 provided for in Subsection A of this section shall not apply to  
4 a candidate's own contribution from the candidate's personal  
5 funds to the candidate's own campaign.

6 G. For the purposes of this section:

7 (1) "primary election" means the period  
8 beginning on the day after the general election for the  
9 applicable office and ending on the day of the primary for that  
10 office; and

11 (2) "general election" means the period  
12 beginning on the day after the primary for the applicable  
13 office and ending on the day of the general election for that  
14 office."

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

17 "1-19-35. REPORTS AND STATEMENTS--LATE FILING  
18 PENALTY--FAILURE TO FILE.--

19 A. Except for the report required to be filed and  
20 delivered the Thursday prior to the election and any  
21 supplemental report, as required in Paragraph (5) of Subsection  
22 B of Section 1-19-29 NMSA 1978, that is due prior to the  
23 election, and subject to the provisions of Section 1-19-34.4  
24 NMSA 1978, if a statement of no activity or a report of  
25 expenditures and contributions contains false or incomplete

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1 information or is filed after any deadline imposed by the  
2 Campaign Reporting Act, the responsible reporting individual or  
3 political committee, in addition to any other penalties or  
4 remedies prescribed by the Election Code, shall be liable for  
5 and shall pay to the [~~secretary of~~] state ethics commission  
6 fifty dollars (\$50.00) per day for each regular working day  
7 after the time required by the Campaign Reporting Act for the  
8 filing of statements of no activity or reports of expenditures  
9 and contributions until the complete or true statement or  
10 report is filed, up to a maximum of five thousand dollars  
11 (\$5,000).

12 B. If any reporting individual files a false,  
13 intentionally incomplete or late report of expenditures and  
14 contributions due on the Thursday prior to the election, the  
15 reporting individual or political committee shall be liable  
16 and pay to the [~~secretary of~~] state ethics commission five  
17 hundred dollars (\$500) for the first working day and fifty  
18 dollars (\$50.00) for each subsequent working day after the time  
19 required for the filing of the report until the true and  
20 complete report is filed, up to a maximum of five thousand  
21 dollars (\$5,000).

22 C. If a reporting individual fails to file or files  
23 a late supplemental report of expenditures and contributions as  
24 required in Paragraph (5) of Subsection B of Section 1-19-29  
25 NMSA 1978, the reporting individual or political committee

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1 shall be liable for and pay to the [~~secretary of~~] state ethics  
2 commission a penalty equal to the amount of each contribution  
3 received or pledged after the Tuesday before the election that  
4 was not timely filed.

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

10 E. Any candidate who fails or refuses to file a  
11 report of expenditures and contributions or statement of no  
12 activity or to pay a penalty imposed by the [~~secretary of~~]  
13 state ethics commission as required by the Campaign Reporting  
14 Act shall not, in addition to any other penalties provided by  
15 law:

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

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

24 F. Any candidate who loses an election and who  
25 failed or refused to file a report of expenditures and

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1 contributions or a statement of no activity or to pay a penalty  
2 imposed by the [~~secretary of~~] state ethics commission as  
3 required by the Campaign Reporting Act shall not be, in  
4 addition to any other penalties provided by law, permitted to  
5 file a declaration of candidacy or nominating petition for any  
6 future election until the candidate satisfies all reporting  
7 requirements of that act and pays all penalties owed."

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

10 "1-19A-1. SHORT TITLE.--~~[Sections 1 through 17 of this~~  
11 ~~act]~~ Chapter 1, Article 19A NMSA 1978 may be cited as the  
12 "Voter Action Act"."

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

15 "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

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

19 B. "certified candidate" means a candidate running  
20 for a covered office who chooses to obtain financing pursuant  
21 to the Voter Action Act and is certified as a Voter Action Act  
22 candidate;

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

24 [~~C.~~] D. "contested election" means an election in  
25 which there are more candidates for a position than the number

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1 to be elected to that position;

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

5           ~~[E-]~~ F. "election cycle" means the primary and  
6 general elections for the same term of the same covered office,  
7 beginning on the day after the last general election for the  
8 office and ending with the general election; the primary  
9 election cycle begins on the first day of the election cycle  
10 and ends on the day of the primary election; the general  
11 election begins on the day after the primary election and ends  
12 on the day of the general election;

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

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

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

23                   (1) made by a registered voter who is eligible  
24 to vote for the covered office that the applicant candidate is  
25 seeking;

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

4 (3) acknowledged by a receipt that identifies  
5 the contributor's name and residential address on forms  
6 provided by the [~~bureau of elections~~] commission and that is  
7 signed by the contributor, one copy of which is attached to the  
8 list of contributors and sent to the [~~bureau of elections~~]  
9 commission;

10 [~~F.~~] J. "qualifying period" means:

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

15 (2) for independent and minor party  
16 candidates, the period beginning February 1 of the election  
17 year and ending that year at 5:00 p.m. on the filing date for  
18 independent or minor party candidates for the office for which  
19 the candidate is running;

20 [~~J. "secretary" means the secretary of state or the~~  
21 ~~office of the secretary of state]~~ and

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

25 SECTION 32. Section 1-19A-3 NMSA 1978 (being Laws 2003,

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1 Chapter 14, Section 3) is amended to read:

2 "1-19A-3. TERMS OF PARTICIPATION--DECLARATION OF  
3 INTENT.--

4 A. A candidate choosing to obtain financing  
5 pursuant to the Voter Action Act shall first file with the  
6 [~~secretary~~] commission a declaration of intent to participate  
7 in that act as an applicant candidate for a stated covered  
8 office. The declaration of intent shall be filed with the  
9 [~~secretary~~] commission prior to or during the qualifying period  
10 according to forms and procedures developed by the [~~secretary~~]  
11 commission.

12 B. An applicant candidate choosing to participate  
13 in the Voter Action Act shall submit a declaration of intent  
14 prior to collecting any qualifying contributions and make  
15 explicit in the declaration that the candidate has complied  
16 with and will continue to comply with that act's contribution  
17 and expenditure limits and all other requirements set forth in  
18 that act and rules issued by the [~~secretary~~] commission.

19 C. A candidate shall not be eligible to become an  
20 applicant candidate if the candidate has accepted contributions  
21 totaling five hundred dollars (\$500) or more or made  
22 expenditures totaling five hundred dollars (\$500) or more  
23 between the beginning of the qualifying period and filing a  
24 declaration of intent."

25 SECTION 33. Section 1-19A-6 NMSA 1978 (being Laws 2003,

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1 Chapter 14, Section 6) is amended to read:

2 "1-19A-6. CERTIFICATION.--

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

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

9 (2) submitted the appropriate number of  
10 qualifying contributions;

11 (3) qualified as a candidate pursuant to other  
12 applicable state election law;

13 (4) complied with seed money contribution and  
14 expenditure restrictions; and

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

17 B. The [~~secretary~~] commission shall certify  
18 applicant candidates complying with the requirements of this  
19 section as certified candidates as soon as possible and no  
20 later than ten days after final submittal of qualifying  
21 contributions and certification as a candidate pursuant to  
22 other applicable state election law.

23 C. A certified candidate shall comply with all  
24 requirements of the Voter Action Act after certification and  
25 throughout the primary election and general election cycles. A

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1 certified candidate who accepts public campaign finance funds  
2 for the primary election shall comply with all the requirements  
3 of the Voter Action Act for the remainder of the election cycle  
4 in question, even if ~~[he]~~ the certified candidate decides not  
5 to accept such funds for the general election."

6 SECTION 34. Section 1-19A-7 NMSA 1978 (being Laws 2003,  
7 Chapter 14, Section 7, as amended) is amended to read:

8 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS  
9 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

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

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

17 C. A certified candidate shall limit total campaign  
18 expenditures and debts to the amount of money distributed to  
19 that candidate from the fund. A certified candidate shall not  
20 accept contributions or loans from any other source except the  
21 certified candidate's political party, as specified in Section  
22 1-19A-8 NMSA 1978.

23 D. A certified candidate shall return to the  
24 ~~[secretary]~~ commission, within thirty days after the primary  
25 election, any amount that is unspent or unencumbered by the

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1 date of the primary election for direct deposit into the fund.

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

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

8 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

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

11 B. Applicant candidates shall file a report listing  
12 seed money contributions and expenditures with their  
13 application for certification.

14 C. Applicant candidates shall file qualifying  
15 contributions with the [~~secretary~~] commission during the  
16 qualifying period according to procedures developed by the  
17 [~~secretary~~] commission. In developing these procedures, the  
18 [~~secretary~~] commission shall use existing campaign reporting  
19 procedures and deadlines whenever practical.

20 D. Certified candidates shall report expenditures  
21 according to the campaign reporting requirements specified in  
22 the Election Code.

23 E. In addition to the campaign contribution and  
24 expenditure reports specified in the Election Code, all  
25 noncertified candidates who have as an opponent a certified

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1 candidate shall report to the [~~secretary~~] commission ten days  
2 before the primary and general elections the amount of money  
3 spent by that noncertified candidate. This report shall  
4 include all previously unreported transactions through 5:00  
5 p.m. two days before the report is due.

6 F. A person or political committee that makes  
7 expenditures to influence a race involving a certified  
8 candidate shall report to the [~~secretary~~] commission the amount  
9 that person or political committee has spent. These reports  
10 shall include all previously unreported transactions through  
11 5:00 p.m. two days before the report is due, and shall be  
12 submitted as follows:

13 (1) for the primary election, by 5:00 p.m. on  
14 the second Monday in May, by 5:00 p.m. on the eleventh day  
15 before the election and by 5:00 p.m. on the Thursday before the  
16 election; and

17 (2) for the general election, by 5:00 p.m. the  
18 first Tuesday in October, by 5:00 p.m. on the eleventh day  
19 before the election and by 5:00 p.m. on the Thursday before the  
20 election."

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

23 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

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

3 (2) paying administrative and enforcement  
4 costs of the Voter Action Act; and

5 (3) carrying out all other specified  
6 provisions of the Voter Action Act.

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

12 C. Money received from the following sources shall  
13 be deposited directly into the fund:

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

16 (2) any recurring balance of unspent fund  
17 money distributed to a certified candidate who does not remain  
18 a candidate through the primary or general election period for  
19 which the money was distributed;

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

23 (4) money that remains unspent or unencumbered  
24 by a certified candidate following the date of the general  
25 election;

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1 (5) unspent seed money that cannot be used for  
2 any other purpose;

3 (6) money distributed to the fund from funds  
4 received pursuant to the Uniform Unclaimed Property Act (1995);  
5 and

6 (7) money appropriated by the legislature.

7 D. A subaccount shall be established in the fund,  
8 and money in the subaccount shall only be used to pay the costs  
9 of carrying out the provisions of the Voter Action Act related  
10 to public regulation commission elections.

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

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

17 (2) one hundred thousand dollars (\$100,000)  
18 from utility and carrier inspection fees collected pursuant to  
19 Section 63-7-20 NMSA 1978."

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

22 "1-19A-11. DETERMINATION OF FUND AMOUNT.--

23 A. By January 1, 2007, and every two years  
24 thereafter, the [~~secretary~~] commission shall prepare and  
25 provide to the legislature a report documenting, evaluating and

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1 making recommendations relating to the administration,  
2 implementation and enforcement of the Voter Action Act.

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

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

10 "1-19A-12. TIMING OF FUND DISTRIBUTION.--

11 A. [~~Beginning with the election cycle that ends~~  
12 ~~with the general election in 2006~~] The [~~secretary~~] commission  
13 shall distribute money from the fund to certified candidates in  
14 accordance with the provisions of Subsections B and C of this  
15 section.

16 B. For a primary election certified candidate, the  
17 [~~secretary~~] commission shall distribute the amount due to that  
18 certified candidate for that covered office within one week of  
19 certification.

20 C. For a candidate certified for the general  
21 election, the [~~secretary~~] commission shall distribute the  
22 amount due to that certified candidate for that covered office  
23 within one week after the primary election or, for a minor  
24 party or independent candidate, within one week after  
25 certification of the candidate."

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

3           "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

4           A. By August 1 [2007] of each odd-numbered year,  
5 the [~~secretary~~] commission shall determine the amount of money  
6 to be distributed to each certified candidate for the election  
7 cycle ending with the general election in 2008, based on the  
8 type of election and the provisions of Subsections B through F  
9 of this section.

10           B. For contested primary 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 of the  
15 candidate's party in the district of the office for which the  
16 candidate is running; and

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

20           C. For uncontested primary elections, the amount of  
21 money to be distributed to a certified candidate is equal to  
22 fifty percent of the amount specified in Subsection B of this  
23 section.

24           D. For contested general elections, the amount of  
25 money to be distributed to a certified candidate is equal to

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1 the following:

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

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

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

19 F. Once the certification for candidates for the  
20 primary election has been completed, the [~~secretary~~] commission  
21 shall calculate the total amount of money to be distributed in  
22 the primary election cycle, based on the number of certified  
23 candidates and the allocations specified in this section. The  
24 [~~secretary~~] commission shall increase the total amount by  
25 twenty percent to provide funds for additional matching funds

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1 in the primary election. The [~~secretary~~] commission shall also  
2 prepare an estimate of the total amount of money that might be  
3 distributed in the general election cycle. This estimate shall  
4 be increased by twenty percent to provide funds for additional  
5 matching funds in the general election. If the total amount to  
6 be distributed in the primary election cycle, plus the added  
7 twenty percent and the estimated total amount to be distributed  
8 in the general election cycle, plus the added twenty percent,  
9 all taken together, exceed the amount expected to be available  
10 in the fund, the [~~secretary~~] commission shall allocate the  
11 amount available between the primary and general election  
12 cycles. This allocation shall be based on the ratio of the two  
13 total amounts.

14 G. If the allocation specified in Subsection F of  
15 this section is greater than the total amount available for  
16 distribution, then the amounts to be distributed to individual  
17 candidates, specified in Subsections B through E of this  
18 section, shall each be reduced by the same percentage as the  
19 reduction by which the total amount needed has been reduced  
20 relative to the total amount available.

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

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1 I. No money shall be distributed to candidates in  
2 judicial retention elections. No money shall be distributed to  
3 judicial candidates in uncontested general elections, provided  
4 that if a general election race that is initially uncontested  
5 later becomes contested, the certified judicial candidate shall  
6 receive a distribution in accordance with Subsection D of this  
7 section."

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

10 "1-19A-14. MATCHING FUNDS.--When a certified or  
11 noncertified candidate has one or more opponents who are  
12 certified candidates and the candidate's campaign finance  
13 report or group of reports shows that the sum of the  
14 candidate's expenditures and obligations made, or funds raised  
15 or borrowed, whichever is greater, alone or in conjunction with  
16 expenditures made independently of the candidate to influence  
17 the election on behalf of the candidate, exceeds the amount  
18 distributed to an opposing certified candidate, the ~~[secretary]~~  
19 commission shall issue immediately to any opposing certified  
20 candidate an additional amount equivalent to the excess amount  
21 reported by the opposing candidate. Total matching funds to a  
22 certified candidate in an election are limited to twice the  
23 amount originally distributed to that candidate pursuant to  
24 Section 1-19A-13 NMSA 1978."

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

2 "1-19A-15. ADMINISTRATION--~~[SECRETARY OF STATE]~~  
3 COMMISSION--DUTIES.--

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

6 B. The rules shall include procedures for:

- 7 (1) qualifications, certification and  
8 disbursement of revenues and return of unspent fund revenues;  
9 (2) obtaining qualifying contributions;  
10 (3) certification of candidates;  
11 (4) collection of revenues; and  
12 (5) return of fund disbursements and other  
13 money to the fund."

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

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

19 A. a person aggrieved by a certification decision  
20 or a decision regarding the distribution of matching funds may  
21 appeal to the [~~secretary~~] commission within three days of the  
22 decision. The appeal shall be in writing and shall set forth  
23 the reasons for appeal;

24 B. within five days after an appeal is properly  
25 made, and after due notice is given to the parties in dispute,

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1 the ~~[secretary]~~ commission shall hold a hearing whereby:

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

5 (2) the ~~[secretary]~~ commission shall rule on  
6 the appeal within three days after the completion of the  
7 hearing;

8 C. the parties in dispute may appeal the decision  
9 of the ~~[secretary]~~ commission by commencing an action in  
10 district court; and

11 D. certified candidates whose certification is  
12 revoked on appeal shall return to the ~~[secretary]~~ commission  
13 any unspent money distributed from the fund. If the  
14 ~~[secretary]~~ commission or court finds that an appeal was made  
15 frivolously or to result in delay or hardship, the ~~[secretary]~~  
16 commission or court may sanction the moving party by requiring  
17 the party to pay costs of the administrative hearing, the court  
18 hearing and the opposing parties."

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

21 "1-19A-17. PENALTIES.--

22 A. In addition to other penalties that may be  
23 applicable, a person who violates a provision of the Voter  
24 Action Act is subject to a civil penalty of up to ten thousand  
25 dollars (\$10,000) per violation. In addition to a fine, a

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1 certified candidate found in violation of that act may be  
2 required to return to the fund all amounts distributed to the  
3 candidate from the fund. If the [~~secretary~~] commission makes a  
4 determination that a violation of that act has occurred, the  
5 [~~secretary~~] commission shall impose a fine or transmit the  
6 finding to the attorney general for prosecution. In  
7 determining whether a certified candidate is in violation of  
8 the expenditure limits of that act, the [~~secretary~~] commission  
9 may consider as a mitigating factor any circumstances out of  
10 the candidate's control.

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

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

19 "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation  
20 Act:

21 A. "compensation" means any money, per diem,  
22 salary, fee or portion thereof or the equivalent in services  
23 rendered or in-kind contributions received or to be received in  
24 return for lobbying services performed or to be performed;

25 B. "expenditure" means a payment, transfer or

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1 distribution or obligation or promise to pay, transfer or  
2 distribute any money or other thing of value but does not  
3 include a lobbyist's own personal living expenses and the  
4 expenses incidental to establishing and maintaining an office  
5 in connection with lobbying activities or compensation paid to  
6 a lobbyist by a lobbyist's employer;

7 C. "legislative committee" means a committee  
8 created by the legislature, including interim and standing  
9 committees of the legislature;

10 D. "lobbying" means attempting to influence:

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

16 (2) an official action;

17 E. "lobbyist" means any individual who is  
18 compensated for the specific purpose of lobbying; is designated  
19 by an interest group or organization to represent it on a  
20 substantial or regular basis for the purpose of lobbying; or in  
21 the course of [~~his~~] employment, is engaged in lobbying on a  
22 substantial or regular basis. "Lobbyist" does not include:

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

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1                   (2) [~~any~~] a elected or appointed officer of  
2 the state or its political subdivisions or an Indian nation,  
3 tribe or pueblo acting in [~~his~~] the officer's official  
4 capacity;

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

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

19                   (5) a member of the legislature, the staff of  
20 [~~any~~] a member of the legislature or the staff of [~~any~~] a  
21 legislative committee when addressing legislation;

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

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

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

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

13 G. "official action" means the action or nonaction  
14 of a state official or state agency, board or commission acting  
15 in a rulemaking proceeding;

16 H. "person" means an individual, partnership,  
17 association, committee, federal, state or local governmental  
18 entity or agency, however constituted, public or private  
19 corporation or any other organization or group of persons who  
20 are voluntarily acting in concert;

21 I. "political contribution" means a gift,  
22 subscription, loan, advance or deposit of [~~any~~] money or other  
23 thing of value, including the estimated value of an in-kind  
24 contribution, that is made or received for the purpose of  
25 influencing a primary, general or statewide election, including

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1 a constitutional or other question submitted to the voters, or  
2 for the purpose of paying a debt incurred in any such election;

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

5 K. "rulemaking proceeding" means a formal process  
6 conducted by a state agency, board or commission for the  
7 purpose of adopting a rule, regulation, standard, policy or  
8 other requirement of general applicability and does not include  
9 adjudicatory proceedings; and

10 L. "state public officer" means a person holding a  
11 statewide office provided for in the constitution of New  
12 Mexico."

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

15 "2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--  
16 MODIFICATION TO STATEMENT.--

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

25 (1) the lobbyist's full name, permanent

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1 business address and business address while lobbying; and

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

4 B. No registration fee shall be required of  
5 individuals receiving only reimbursement of personal expenses  
6 and no other compensation or salary for lobbying. No  
7 expenditure statement required by Section 2-11-6 NMSA 1978  
8 shall be required if the lobbyist anticipates making or  
9 incurring and makes or incurs no expenditures or political  
10 contributions under Section 2-11-6 NMSA 1978. The lobbyist  
11 shall indicate in [~~his~~] the lobbyist's registration statement  
12 whether those circumstances apply to [~~him~~] the lobbyist.

13 C. For each employer listed in Paragraph (2) of  
14 Subsection A of this section, the lobbyist shall file the  
15 following information:

16 (1) a full disclosure of the sources of funds  
17 used for lobbying;

18 (2) a written statement from each of the  
19 lobbyist's employers authorizing [~~him~~] the lobbyist to lobby on  
20 the employer's behalf;

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

23 (4) the name and address of the person, if  
24 other than the lobbyist or [~~his~~] the lobbyist's employer, who  
25 will have custody of the accounts, bills, receipts, books,

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1 papers and documents required to be kept under the provisions  
2 of the Lobbyist Regulation Act.

3 D. For each succeeding year that an individual is  
4 employed or retained as a lobbyist by the same employer, and  
5 for whom all the information disclosed in the initial  
6 registration statement remains substantially the same, the  
7 lobbyist shall file a simple annual registration renewal in  
8 January and pay the twenty-five-dollar (\$25.00) filing fee for  
9 each of the lobbyist's employers together with a short,  
10 abbreviated prescribed form for renewal.

11 E. Whenever there is a modification of the facts  
12 required to be set forth by this section or there is a  
13 termination of the lobbyist's employment as a lobbyist before  
14 the end of the calendar year, the lobbyist shall notify the  
15 [~~secretary of~~] state ethics commission within one month of such  
16 occurrence and shall furnish full information concerning the  
17 modification or termination. If the lobbyist's employment  
18 terminates at the end of a calendar year, no separate  
19 termination report need be filed."

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

22 "2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--  
23 REPORTING PERIODS.--

24 A. Each lobbyist or lobbyist's employer who makes  
25 or incurs expenditures or political contributions for the

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1 benefit of or in opposition to a state legislator or candidate  
2 for the state legislature, a state public officer or candidate  
3 for state public office, a board or commission member or state  
4 employee who is involved in an official action affecting the  
5 lobbyist's employer or in support of or in opposition to a  
6 ballot issue or pending legislation or official action shall  
7 file an expenditure report with the [~~secretary of~~] state ethics  
8 commission on a prescribed form or in an electronic format  
9 approved by the [~~secretary of state~~] commission. The  
10 expenditure report shall include a sworn statement that sets  
11 forth:

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

- 15 (a) meals and beverages;
- 16 (b) other entertainment expenditures;
- 17 (c) gifts; and
- 18 (d) other expenditures;

19 (2) each political contribution made,  
20 identified by amount, date and name of the candidate or ballot  
21 issue supported or opposed; and

22 (3) the names, addresses and occupations of  
23 other contributors and the amounts of their separate political  
24 contributions if the lobbyist or lobbyist's employer delivers  
25 directly or indirectly separate contributions from those

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1 contributors in excess of five hundred dollars (\$500) in the  
2 aggregate for each election to a candidate, a campaign  
3 committee or anyone authorized by a candidate to receive funds  
4 on the candidate's behalf.

5 B. If the expenditure report is filed  
6 electronically, the report shall be electronically  
7 authenticated by the lobbyist or the lobbyist's employer using  
8 an electronic signature as prescribed by the [~~secretary of~~]  
9 state ethics commission in conformance with the Electronic  
10 Authentication of Documents Act and the Uniform Electronic  
11 Transactions Act. For the purposes of the Lobbyist Regulation  
12 Act, a report that is electronically authenticated in  
13 accordance with the provisions of this subsection shall be  
14 deemed to have been subscribed and sworn to by the lobbyist or  
15 the lobbyist's employer that is required to file the report.

16 C. In identifying expenditures pursuant to the  
17 provisions of Paragraph (1) of Subsection A of this section,  
18 any individual expenditure that is more than the threshold  
19 level established in the Internal Revenue Code of 1986, as  
20 amended, that must be reported separately to claim a business  
21 expense deduction, as published by the [~~secretary of~~] state  
22 ethics commission, shall be identified by amount, date,  
23 purpose, type of expenditure and name of the person who  
24 received or was benefited by the expenditure; provided, in the  
25 case of special events, including parties, dinners, athletic

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1 events, entertainment and other functions, to which all members  
2 of the legislature, to which all members of either house or any  
3 legislative committee or to which all members of a board or  
4 commission are invited, expenses need not be allocated to each  
5 individual who attended, but the date, location, name of the  
6 body invited and total expenses incurred shall be reported.

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

9 (1) by January 15 for all expenditures and  
10 political contributions made or incurred during the preceding  
11 year and not previously reported;

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

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

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

22 F. A lobbyist or lobbyist's employer shall obtain  
23 and preserve all records, accounts, bills, receipts, books,  
24 papers and documents necessary to substantiate the financial  
25 statements required to be made under the Lobbyist Regulation

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1 Act for a period of two years from the date of filing of the  
2 report containing such items. When the lobbyist is required  
3 under the terms of the lobbyist's employment to turn over any  
4 such records to the lobbyist's employer, responsibility for the  
5 preservation of them as required by this section and the filing  
6 of reports required by this section shall rest with the  
7 employer. Such records shall be made available to the  
8 [~~secretary of~~] state ethics commission or attorney general upon  
9 written request.

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

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

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1 organization. Within fifteen days after a legislative session,  
2 the organization shall report the contributions, pledges to  
3 contribute, expenditures and commitments to expend for the  
4 advertising campaign for the purpose of lobbying, including the  
5 names, addresses and occupations of the contributors, to the  
6 [~~secretary of~~] state ethics commission on a prescribed form."

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

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

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

20 "2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--  
21 BINDING ARBITRATION--CIVIL PENALTIES.--

22 A. The [~~secretary of~~] state ethics commission shall  
23 advise and seek to educate all persons required to perform  
24 duties pursuant to the Lobbyist Regulation Act of those duties.  
25 This includes advising all registered lobbyists at least

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

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

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

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1     ~~[secretary of state]~~ commission determines that good cause  
2     exists, the ~~[secretary of state]~~ commission may by a written  
3     notice of final action partially or fully waive any fine  
4     imposed. A written notice of final action shall be sent by  
5     certified mail.

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

21             E. An arbitration hearing shall be conducted by a  
22    single arbitrator selected within ten days by the person  
23    against whom the penalty has been imposed from a list of five  
24    arbitrators provided by the ~~[secretary of]~~ state ~~[Neither the~~  
25    ~~secretary of state nor]~~ ethics commission. A person subject to

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1 the Lobbyist Regulation Act, Campaign Reporting Act or  
2 Financial Disclosure Act [~~may~~] shall not serve as an  
3 arbitrator. Arbitrators shall be considered to be independent  
4 contractors, not public officers or employees, and shall not be  
5 paid per diem and mileage.

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

19 G. Any person who files a report after the deadline  
20 imposed by the Lobbyist Regulation Act, or any person who files  
21 a false or incomplete report, shall be liable for and shall pay  
22 to the [~~secretary of~~] state ethics commission fifty dollars  
23 (\$50.00) per day for each regular working day after the time  
24 required for the filing of the report until the complete report  
25 is filed, up to a maximum of five thousand dollars (\$5,000).

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

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

7           "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN  
8 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

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

22           B. All meetings of a quorum of members of any  
23 board, commission, administrative adjudicatory body or other  
24 policymaking body of any state agency or any agency or  
25 authority of any county, municipality, district or political

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

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

23 D. Any meetings at which the discussion or adoption  
24 of any proposed resolution, rule, regulation or formal action  
25 occurs and at which a majority or quorum of the body is in

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

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

19 F. Meeting notices shall include an agenda  
20 containing a list of specific items of business to be discussed  
21 or transacted at the meeting or information on how the public  
22 may obtain a copy of such an agenda. Except in the case of an  
23 emergency or in the case of a public body that ordinarily meets  
24 more frequently than once per week, at least seventy-two hours  
25 prior to the meeting, the agenda shall be available to the

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

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

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1 quorum is present. Minutes shall not become official until  
2 approved by the policymaking body.

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

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

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

19 Judicial candidates interviewed by any commission shall have  
20 the right to demand an open interview;

21 (3) deliberations by a public body in  
22 connection with an administrative adjudicatory proceeding. For  
23 purposes of this paragraph, "administrative adjudicatory  
24 proceeding" means a proceeding brought by or against a person  
25 before a public body in which individual legal rights, duties

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

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

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

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

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

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

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

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

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

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

18 (1) the closure, if made in an open meeting,  
19 shall be approved by a majority vote of a quorum of the  
20 policymaking body; the authority for the closure and the  
21 subject to be discussed shall be stated with reasonable  
22 specificity in the motion calling for the vote on a closed  
23 meeting; the vote shall be taken in an open meeting; and the  
24 vote of each individual member shall be recorded in the  
25 minutes. Only those subjects announced or voted upon prior to

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1 closure by the policymaking body may be discussed in a closed  
2 meeting; or

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

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

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

20 "10-16-11. CODES OF CONDUCT.--

21 A. By January 1, 1994, each elected statewide  
22 executive branch public officer shall adopt a general code of  
23 conduct for employees subject to ~~[his]~~ the officer's control.  
24 The New Mexico legislative council shall adopt a general code  
25 of conduct for all legislative branch employees. The general

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1 codes of conduct shall be based on the principles set forth in  
2 the Governmental Conduct Act.

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

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

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1 and legislative branch agency shall adopt ongoing education  
2 programs to advise public officers and employees about the  
3 codes of conduct. All codes shall be filed with the [~~secretary~~  
4 ~~of~~] state ethics commission and are open to public inspection.

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

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

10 SECTION 51. Section 10-16-13.1 NMSA 1978 (being Laws  
11 1993, Chapter 46, Section 35) is amended to read:

12 "10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

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

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

25 SECTION 52. Section 10-16-14 NMSA 1978 (being Laws 1967,

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1 Chapter 306, Section 14, as amended) is amended to read:

2 "10-16-14. ENFORCEMENT PROCEDURES.--

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

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

14 C. If the attorney general determines that there is  
15 sufficient cause to file a complaint against a public officer  
16 removable only by impeachment, [~~he~~] the attorney general shall  
17 refer the matter to the house of representatives of the  
18 legislature. If within thirty days after the referral the  
19 house of representatives has neither formally declared that the  
20 charges contained in the complaint are not substantial nor  
21 instituted hearings on the complaint, the attorney general  
22 shall make public the nature of the charges, but [~~he~~] the  
23 attorney general shall make clear that the merits of the  
24 charges have never been determined. Days during which the  
25 legislature is not in session shall not be included in

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1 determining the thirty-day period.

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

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

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

24 "10-16-18. ENFORCEMENT--CIVIL PENALTIES.--

25 A. If the ~~[secretary of]~~ state ethics commission

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

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

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

15 "10-16A-1. SHORT TITLE--FINANCIAL DISCLOSURE ACT.--  
16 [~~Sections 39 through 45 of this act~~] Chapter 10, Article 16A  
17 NMSA 1978 may be cited as the "Financial Disclosure Act"."

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

20 "10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES  
21 AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON  
22 BALLOT OR APPOINTMENT.--

23 A. At the time of filing a declaration of candidacy  
24 or nominating petition, a candidate for legislative or  
25 statewide office shall file with the proper filing officer, as

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

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

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

21 (1) the full name, mailing address and  
22 residence address of each person covered in the disclosure  
23 statement, except the address of the spouse need not be  
24 disclosed; the name and address of the person's and spouse's  
25 employer and the title or position held; and a brief

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1 description of the nature of the business or occupation;

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

24 (3) a general description of the type of real  
25 estate owned in New Mexico, other than a personal residence,

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1 and the county where it is located;

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

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

9 (6) all New Mexico professional licenses held;

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

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

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

23 D. A complete financial disclosure statement shall  
24 be filed every year. The [~~secretary of~~] state ethics  
25 commission shall mail each elected official required to file a

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1 financial disclosure statement a copy of any statement the  
2 person filed the previous year.

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

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

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

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

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

25 "10-16A-4. DISCLOSURES BY CERTAIN PUBLIC OFFICERS OR

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1 EMPLOYEES OF STATE AGENCIES--CONDITION OF EMPLOYMENT.--

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

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

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

25 D. The filing of disclosures pursuant to this

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1 section is a condition of entering upon and continuing in state  
2 employment or, for persons subject to Subsection B of this  
3 section, of holding public office."

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

6 "10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

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

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

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

23 "10-16A-6. INVESTIGATIONS--BINDING ARBITRATION--FINES--  
24 ENFORCEMENT.--

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

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

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

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

24 D. The arbitrator may take any action the  
25 [~~secretary of~~] state ethics commission is authorized to take.

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

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

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

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

25 "10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--

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

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

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

16           "10-16B-1. SHORT TITLE.--~~[This act]~~ Chapter 10, Article  
17 16B NMSA 1978 may be cited as the "Gift Act"."

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

20           "10-16B-3. LIMITATION ON GIFTS.--

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



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1 a market value greater than two hundred fifty dollars (\$250).

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

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

15 SECTION 62. TEMPORARY PROVISION--REPORT ON EXTENSION OF  
16 STATE ETHICS COMMISSION JURISDICTION TO LOCAL GOVERNMENTS.--By  
17 January 1, 2018, the state ethics commission shall submit a  
18 report to the legislature and the governor regarding the  
19 extension of commission jurisdiction to elected and appointed  
20 officials and employees of political subdivisions of the state.  
21 The report shall include and make recommendations on:

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

25 B. the estimated number of additional employees and

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1 the amount and type of resources needed by the commission to  
2 carry out its powers and duties if its jurisdiction were  
3 extended;

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

7 D. any changes needed to existing law.

8 SECTION 63. TEMPORARY PROVISION--TRANSFER OF PROPERTY,  
9 CONTRACTS AND REFERENCES IN LAW AND RULES.--On January 1, 2017:

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

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

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

25 C. all references in law to the secretary of

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

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

8 SECTION 64. APPROPRIATION.--Two hundred thousand dollars  
9 (\$200,000) is appropriated from the general fund to the state  
10 ethics commission for expenditure in fiscal year 2016 to carry  
11 out the provisions of the State Ethics Commission Act. Any  
12 unexpended or unencumbered balance remaining at the end of  
13 fiscal year 2016 shall revert to the general fund.

14 SECTION 65. SEVERABILITY.--If any part or application of  
15 this act is held invalid, the remainder or its application to  
16 other situations or persons shall not be affected.

17 SECTION 66. APPLICABILITY.--The provisions of the State  
18 Ethics Commission Act apply to conduct that occurs on or after  
19 January 1, 2017.

20 SECTION 67. EFFECTIVE DATE.--

21 A. The effective date of the provisions of Sections  
22 1 through 7, 12 through 16, 49 and 62 through 66 of this act is  
23 July 1, 2016.

24 B. The effective date of the provisions of Sections  
25 8 through 11, 17 through 48 and 50 through 61 of this act is

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1 January 1, 2017.

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