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FISCAL IMPACT REPORT

SPONSOR HGEIC ORIGINAL DATE 02/27/15
LAST UPDATED 03/02/15 HB 115/HGEICS
SHORT TITLE State Ethics Commission Act SB _____
ANALYST Cerny

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Narrative	See Narrative	See Narrative	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB 58, HJR 15.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (AGO)

Secretary of State (SOS)

SUMMARY

Synopsis of HGEIC Substitute

House Bill 190 as substituted by the House Government, Elections and Indian Affairs Committee is designed to establish a State Ethics Commission Act (Act) and create a State Ethics Commission (SEC) as an adjunct agency of the executive branch. The proposed SEC would oversee the filing of complaints against state officials, state employees, government contractors and lobbyists, develop an ethics code, provide annual ethics training issue advisory opinions and have subpoena powers.

CS/115 is essentially the same as the original bill with the following significant changes:

- Adds definitions of “public officer” and “public employee” to the proposed Act that effectively expand the jurisdiction of the SEC to include elected officers and employees of local governments.
- Clarifies that candidates for state and county elected offices are within the SEC’s jurisdiction.

- Adds an exception from the Act’s prohibition against disclosure of confidential information where disclosure is necessary to pursue an investigation.
- Deletes a provision in the original bill that prohibited the SEC from taking action on complaints against a candidate for a public office between the primary election filing date and the date of the general election.
- Provides that the Act does not preclude a civil action for malicious abuse of process.
- Provides that materials and evidence submitted to the SEC are absolutely privileged in a defamation action.
- Deletes the appropriation made in the original bill.

A more detailed summary of the bill may be found in attachment 1, with committee substitute changes noted in italics.

FISCAL IMPLICATIONS

CS/115 carries no appropriation.

The \$200.0 appropriation in the original bill appeared inadequate to cover the costs of the new Commission. However, since the sections of the act that apply to formation of the commission and hiring of the director is not effective until July 1, 2016, funds will need to be appropriated in next year’s session. This may allow time for a more realistic budget to be drafted.

The Secretary of State's office currently administers the Campaign Reporting Act, Lobbyist Regulation Act, Governmental Conduct Act and the Financial Disclosure Act. According to SOS analysis, “Three (3) FTE's work primarily on matters arising under these acts. Those FTE(s) also work on election matters during the election cycle. If the SOS did not oversee these acts, these FTE(s) would still be needed on at least a temporary basis during elections.” It is possible the current FTE’s could be transferred to the new Ethics Commission with funding of temporary positions for the SOS during election periods.

Besides staffing the new agency, other fiscal implications are moving costs, IT costs, lease of office space, per diem and mileage for commissioners.

Analysis from the AODA on the original bill indicates that the fiscal impact on district attorneys is indeterminate because it is not know whether CS/115 will affect the number of criminal cases, investigations or ethic cases referred. However, since Section 16 of CS/115 creates a new crime, a misdemeanor associated with the release of confidential information, the district attorneys will have additional costs associated with prosecuting those crimes.

SIGNIFICANT ISSUES

CS/115 resolves some of the issues that were raised by the original bill. For example, elected officials and employees of local governmental entities, as well as candidates for public office,

who were covered by other acts that the SEC would oversee, now are subject to regulation under the act. Otherwise confidential records may be disclosed if needed for an investigation, for example.

CS/115 states in section 3A the SEC “is created as an adjunct agency of the executive branch under direction of the eleven commissioners.” In section 2A it defines “adjunct agency as “an agency, board, commission, office or other instrumentality, not assigned to an elected constitutional officer, that is excluded from any direct or administrative attachment to a department and that retains policymaking and administrative autonomy separate from any other agency of state government.” It is unclear in CS/115 what relationship the SEC will hold to the executive branch under this scenario. The AGO and the State Auditor’s office have autonomy from other agencies of state government, but each is headed by an elected official.

The acts administered by the commission provide for sanctions, which usually involve civil or criminal penalties. Those sanctions will be available to the ethics commission when addressing violations of those acts. However, Section 11C states that if the respondent is a state official or a state employee, the SEC only provides for reprimands, censure and referrals for disciplinary proceedings. Since the State Personnel Board currently handles complaints against state employees, and collective bargaining agreements in place also address the rights of state employees, it is as yet unknown how the SEC’s investigations and process would intersect with existing regulations and practices with regard to this group of individuals.

Further, Section 11C states that if the respondent is a state official or state employee, the written report of the SEC findings of fact and conclusions of law “may include a *public* reprimand or censure regarding the respondent’s behavior or recommendations for disciplinary action against the respondent” and that the commission shall publicly disclose the report to AGO and the appropriate state agency if the respondent is a state employee. Does this conflict with personnel confidentiality restrictions?

Regarding appointments to the Board: a specific provision in the New Mexico code of judicial conduct, NMRA 21-309, prohibits judges from performing any judicial function outside of the judge’s constitutional duties unless provided for by law. CS/115 would authorize the district judges to be appointed to the ethics commission to participate. However, this would be contrary to the clear preference in the code to have judges only adjudicate matters before them in their courts. Not only would the two district judges appointed to the commission have to be on the commission deciding cases, one of them would be pressed into presiding over the commission hearings. This could erode the judiciary’s independence by having judges participate in an administrative process that would, if appealed, progress to judicial review.

CS/115 in Section 15 prohibits retaliatory action against a person who acts in good faith in filing a complaint, or in participating in an investigation or hearing. It is unclear how this provision will be enforced unless new language is added.

PERFORMANCE IMPLICATIONS

The district attorneys (and other state entities) may seek advisory opinions from the commission, receive a proposed code of ethics from the commission, receive an ethics guide and ethics training from the commission, may file complaints with the commission and may be the subject of investigations by the commission.

The district attorneys will receive referrals for criminal cases from the ethics commission, rather than from the secretary of state. In addition, CS/115 creates one new crime, related to the release of information that is confidential under the SEC Act.

ADMINISTRATIVE IMPLICATIONS

The SEC created by this bill would be required to maintain and administer the Campaign Finance Information System, or a replacement program, which is used by candidates, political committees and lobbyists to report contributions and expenditures. Coordination would be required between the SOS and county clerks and the ethics commission to ensure that all candidates who file declarations of candidacy are entered into the system. Further, the ethics commission would be required to notify county clerks and the SOS of any candidates who have unpaid fines or unfiled reports, who are not eligible to have their names placed on the ballot or to receive a certificate of election.

CONFLICT

CS/115 conflicts with SB 58 with reference to “Seed Money” in Sections 31K and 33-A(4), and in Section 40 where “Matching Funds” are mentioned.

CS/115 conflicts with HJR 15 which proposes a constitutional amendment to establish a similar SEC.

OTHER SUBSTANTIVE ISSUES

CA/115 anticipates moving most ethics-related functions out of the SOS. The SOS who is currently in charge of these functions is an elected official. CS/115 would replace oversight of ethics-related functions to an 11-member appointed board, effectively removing voter involvement in the selection of either an individual (as currently is the case) or in the membership of a commission (as CS/115 would create).

According to the National Conference of State Legislatures (NCSL), New Mexico is one of just eight states without an ethics commission. Of the states with ethics commissions, they all have the authority to investigate allegations of violations of the ethics code sections they administer. In twenty states, their orders are enforceable in court.
(See <http://www.ncsl.org/research/ethics/state-ethics-commissions.aspx>)

The NCSL in 2013 provided the following information about jurisdictions:

State ethics commissions are responsible for enforcing ethics laws, although their jurisdictions vary among the states. Jurisdictions can include legislators, executive branch officials, candidates, local officials, lobbyists and vendors. The commissions may have jurisdiction over officials and employees in more than one branch of government. This chart describes the various jurisdictions of ethics commissions.

LEGISLATORS	EXECUTIVE BRANCH	CANDIDATES	LOCAL OFFICIALS (OTHER THAN CAMPAIGN ISSUES)	LOBBYISTS	VENDORS
39 COMMISSIONS IN 35 STATES	46 COMMISSIONS IN 40 STATES	29 COMMISSIONS IN 28 STATES	23 COMMISSIONS IN 23 STATES	31 COMMISSIONS IN 30 STATES	10 COMMISSIONS IN 9 STATES

(Note: some states have more than one commission overseeing ethics violations.)
CAC/bb

AMENDMENTS

AGO analysis states that:

Section 11 of HB 115s provides that “commission hearings” on alleged ethics violations are closed to the public. Section 49 makes a corresponding amendment to the Open Meetings Act by adding an exception to that Act’s public meeting requirements for “meetings of the state ethics commission relating to complaints or investigations of alleged ethics violations.”

The term “meetings” used in Section 49 is broader than the term “hearings” in Section 11. A hearing is one type of meeting held by public bodies. To avoid confusion regarding whether any meeting or only hearings held by the commission relating to a complaint or investigation may be closed, the pertinent language in Sections 11 and 49 might be made more consistent. For example, the word “meetings” in Section 49 could be changed to “hearings.”

Further, the definition of “Lobbyist” appears in two different sections of the bill, Section 2J, 1-8 and Section 44E, 1-8. The definitions are not exactly the same and should conform.

CC/bb/jc

Attachment 1 to HB 115: State Ethics Commission

Section 1 establishes the title of the act.

Section 2 provides definitions under the act, including those for adjunct agency, ethics violations, lobbying, lobbyists, and contractors, official actions that occur under the act, and so on.

Section 3 establishes the membership of the commission, the terms that commissioners serve, and mechanisms for the transaction of business.

Section 4 establishes qualifications for the commissioners.

Section 5 establishes duties and powers of the commissioners.

Section 6 establishes the duties and powers of the executive director of the commission, including additional qualifications, including which acts will be administered.

Section 7 establishes the conditions under which the commissioner should recuse or disqualify himself or herself from action taken by the proposed SEC.

Section 8 establishes that commissioners may issue advisory opinions on matters related to ethics and the conditions under which those advisory opinions may be issued.

Section 9 establishes the conditions under which ethics complaints may be filed with the proposed SEC and the conditions under which investigations may be pursued by the commission.

Section 10 establishes time limitations that must be adhered to as investigations are pursued by the proposed SEC.

Section 11 establishes the conditions under which the proposed SEC creates reports and discloses findings and conclusions of ethics violations.

Section 12 establishes that the complaints, reports, files, records, and communications collected or generated by the proposed SEC or the executive director that pertain to alleged ethics violations are confidential and not subject to the provisions of the Inspection of Public Records Act (IPRA).

Section 13 establishes the conditions under which potential criminal violations may be referred to the Attorney General or appropriate District Attorneys by the proposed SEC.

Section 14 establishes limitations on jurisdiction, in particular the time frame in which investigations may be pursued by the proposed SEC.

Section 15 establishes actions that individuals cannot pursue against other individuals that have filed complaints with the proposed SEC.

Section 16 establishes penalties for individuals that violate the proposed provisions concerning confidentiality (section 12) required by the proposed SEC.

Section 17 establishes definitions as used in the Campaign Reporting Act, in particular that prescribed forms and electronic format are provided by the proposed SEC and proper filing officer is the proposed SEC, not the Secretary of State.

Section 18 amends Section 1-19-26.1 NMSA 1978 related to political committees, in particular that political committees will now file with the proposed SEC and not the Secretary of State.

Section 19 amends Section 1-19-26.2 NMSA 1978 related to the adoption and promulgation of rules to implement the provisions of the Campaign Reporting Act, in particular that this will be the responsibility of the proposed SEC and not the Secretary of State.

Section 20 amends Section 1-19-27 NMSA 1978 related to the filing of reports on campaign contributions and expenditures, in particular that individuals will file reports with the proposed SEC and not the Secretary of State.

Section 21 amends Section 1-19-28 NMSA 1978 related to the provision of campaign contribution and expenditure forms and other similar forms, in particular that individuals will file reports with the proposed SEC and not the Secretary of State.

Section 22 amends Section 1-19-29 NMSA 1978 related to the time and place that reports on campaign contributions and expenditures are filed, in particular that individuals will apply for hardship exemptions with proposed SEC and not the Secretary of State.

Section 23 amends Section 1-19-31 NMSA 1978 related to the format of the required reports on campaign contributions and expenditures, in particular that the proposed SEC will determine that format and not the Secretary of State.

Section 24 amends Section 1-19-32 NMSA 1978, in particular which documents are considered records open to public inspection. The section also substitutes the title of the proposed SEC in those citations where the Secretary of State currently exists.

Section 25 amends Section 1-19-32.1 NMSA 1978 related to the examination of campaign contributions and expenditures, in particular that this would be the responsibility of the SEC and not the Secretary of State.

Section 26 amends Section 1-19-34.4 NMSA 1978 related to the education of the public as to what duties must be adhered to under the Campaign Reporting Act, the conditions under which investigations will be initiated, the conditions under which violations will be determined, the conditions under which penalties will be assessed, and so on, in particular that this would be the responsibility of the SEC and not the Secretary of State.

Section 27 amends Section 1-19-34.6 NMSA 1978 related to the referral of potential violations of the Campaign Reporting Act to the Attorney General or District Attorney for civil action, in particular that this would be the responsibility of the SEC and not the Secretary of State.

Section 28 amends Section 1-19-34.7 NMSA 1978 related to contribution limitations, in particular that it would be the responsibility of the SEC and not the Secretary of State to determine appropriate amounts of contributions.

Section 29 amends Section 1-19-35 NMSA 1978 related to the penalties required for the failure to file or late filing of campaign contribution and expenditure reports, in particular that this would be the responsibility of the SEC and not the Secretary of State.

Section 30 amends Section 1-19A to provide for the short title “Voter Action Act.”

Section 31 amends Section 1-19A-2 NMSA to provide a definition for the proposed SEC in Voter Action Act.

Section 32 amends Section 1-19A-3 NMSA 1978 that individuals declaring an intent to participate in activities that fall under the Voter Action Act, including obtaining campaign financing pursuant to that act, would file declarations of intent with the proposed SEC and not the Secretary of State.

Section 33 amends Section 1-19A-6 NMSA 1978 provides that the certification of applicant candidates is the responsibility of the proposed SEC and not the Secretary of State.

Section 34 amends Section 1-19A-7 NMSA 1978 to state that certified candidates must return unspent or unencumbered funds remaining after an election to the proposed SEC and not the Secretary of State.

Section 35 amends Section 1-19A-9 NMSA 1978 related to the publishing and filing of candidate reporting requirements, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 36 amends Section 1-19A-10 NMSA 1978 related to qualifying contributions deposited into the Public Election Fund, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 37 amends Section 1-19A-11 NMSA 1978 related to the report that documents, evaluates and makes recommendations concerning the Voter Action Act and determines the revenues in the Election Fund and the projected costs for the next election cycle, in particular that this report would be the responsibility of the proposed SEC and not the Secretary of State.

Section 38 amends Section 1-19A-12 NMSA 1978 related to the distribution of election funds to qualified candidates, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 39 amends Section 1-19A-13 NMSA 1978 related to the amount of election funds distribution, in particular that the determination of appropriate amounts would be the responsibility of the proposed SEC and not the Secretary of State.

Section 40 amends Section 1-19A-14 NMSA 1978 related to the issuance of matching funds for qualified candidates, in particular that the issuance of matching funds would be the responsibility of the proposed SEC and not the Secretary of State.

Section 41 amends Section 1-19A-15 NMSA related to the administration of the Voter Action Act, in particular that the administration would be the responsibility of the proposed SEC and not the Secretary of State.

Section 42 amends Section 1-19A-16 NMSA 1978 related to appeals for a challenge of a certification decision, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 43 amends Section 1-19A-17 NMSA 1978 related to penalties applied to individuals who violate provisions of the Voter Action Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 44 amends Section 2-11-2 NMSA 1978 related to definitions used in Lobbyist Regulation Act, and the entity where lobbying-related documents are filed, in particular that this would be the responsibility of the SEC and not the Secretary of State.

Section 45 amends Section 2-11-3 NMSA 1978 related to registration statements required for lobbyists or the employer of lobbyists, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 46 amends Section 2-11-6 NMSA 1978 related to expenditure reports and reporting periods for lobbyists or the employer of lobbyists, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 47 amends Section 2-11-7 NMSA 1978 related to the registration and expenditure statement and the preservation of the statement as a public record, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 48 amends Section 2-11-8.2 NMSA 1978 related to compliance, enforcement, and arbitration under the Lobbyist Regulation Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 49 amends Section 10-15-1 NMSA 1978 related to procedures and exceptions for open public meetings, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State. It also stipulates that meetings of the SEC related to complaints and investigations are closed to the public.

Section 50 amends Section 10-16-11 NMSA 1978 related to codes of conduct for legislative and executive branch employees, in particular that the prescribed codes are the responsibility of and would be filed with the proposed SEC and not the Secretary of State.

Section 51 amends Section 10-16-13.1 NMSA 1978 related to education and compliance of codes established under the Governmental Conduct Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 52 amends Section 10-16-14 NMSA 1978 related to enforcement procedures pursued under the Governmental Conduct Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 53 amends Section 10-16-18 NMSA 1978 related to civil penalties applied as a result of violations of the Governmental Conduct Act, in particular that any suspected violations occurred in the SEC, that the Attorney General may enforce the act.

Section 54 provides for the short title of the Financial Disclosure Act.

Section 55 amends Section 10-16A-3 NMSA 1978 related to declarations of candidacy and financial disclosure statements filed by candidates for legislative and statewide offices, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 56 amends Section 10-16A-4 NMSA 1978 related to disclosures required by public officers or employees of state agencies concerning potential conflicts of interest, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 57 amends Section 10-16A-5 NMSA 1978 related to education and compliance required under the Financial Disclosure Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 58 amends Section 10-16A-6 NMSA 1978 related to enforcement, investigation, fines, and arbitration under the Financial Disclosure Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 59 amends Section 10-16A-8 NMSA 1978 related to enforcement and civil penalties applied under the Financial Disclosure Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 60 provides for the short title of the Gift Act.

Section 61 amends Section 10-16B-3 NMSA 1978 related to the limitation of gifts offered by lobbyists or employers of lobbyists and state officers and employees, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 62 requires a report on the possible extension of the responsibilities of the proposed SEC to local governments, including timeline and additional budget required by the proposed SEC.

Section 63 requires the transfer of all appropriations, money, records, functions, property, equipment and supplies related to the Campaign Reporting Act, the Voter Action Act, the Lobbyist Regulation Act, the Governmental Conduct Act, the Financial Disclosure Act and the Gift Act from the Secretary of State to the proposed SEC.

Section 64 appropriates two hundred thousand dollars (\$200,000) from the general fund to carry out provisions established under the legislation.

Sections 65, 66 and 67 establish provisions of severability, applicability, and effective dates.

Attachment 1 to CS/115/HGEIC: State Ethics Commission

Changes in the Committee Substitute are noted in *italics*.

Section 1 establishes the title of the act, which in the *CS deletes wording about an appropriation*.

Section 2 provides definitions under the act, including those for adjunct agency, ethics violations, lobbying, lobbyists, and contractors, official actions that occur under the act, and now in the CS includes elected officers, public employee and public officer.

Section 3 establishes the membership of the commission, the terms that commissioners serve, and mechanisms for the transaction of business.

Section 4 establishes qualifications for the commissioners.

Section 5 establishes duties and powers of the commissioners, including which individuals may be investigated, *which in the CS now includes public officers, public employees and candidates for public office*. Mandated are creation of an ethics guide and annual ethics training for public officers, public employees, candidates for elected office, among others.

Section 6 establishes the duties and powers of the executive director of the commission, including additional qualifications, including which acts will be administered.

Section 7 establishes the conditions under which the commissioner should recuse or disqualify himself or herself from action taken by the proposed SEC.

Section 8 establishes that commissioners may issue advisory opinions on matters related to ethics and the conditions under which those advisory opinions may be issued.

Section 9 establishes the conditions under which ethics complaints may be filed with the proposed SEC and the conditions under which investigations may be pursued by the commission.

Section 10 establishes time limitations that must be adhered to as investigations are pursued by the proposed SEC.

Section 11 establishes the conditions under which the proposed SEC creates reports and discloses findings and conclusions of ethics violations. *CS adds a section about distributing the report to the district attorney if the respondent is an elected officer or employee of a political subdivision of the state*.

Section 12 establishes that the complaints, reports, files, records, and communications collected or generated by the proposed SEC or the executive director that pertain to alleged ethics violations are confidential and not subject to the provisions of the Inspection of Public Records Act (IPRA). *CS adds a new subsection that exempts from such confidentiality records needed to pursue an investigation*.

Section 13 establishes the conditions under which potential criminal violations may be referred to the Attorney General or appropriate District Attorneys by the proposed SEC.

Section 14 establishes limitations on jurisdiction, in particular the time frame in which investigations may be pursued by the proposed SEC. *The CS deletes language that states the SEC will not take action on a complaint filed on initiated against a candidate for covered public office on or after the filing date for a primary election through Election Day of the general election except in accordance with the Campaign Reporting Act or Voter Action Act.*

Section 15 establishes actions that individuals cannot pursue against other individuals that have filed complaints with the proposed SEC. *In the CS, language in Sections B is changed to state that “Nothing in the SEC Act precludes civil action for malicious abuse of process” and in C, to state that “all pleadings and papers filed with the SEC, and all evidence submitted, are absolutely privileged in an action for defamation.”*

Section 16 establishes penalties for individuals that violate the proposed provisions concerning confidentiality (section 12) required by the proposed SEC. *In the CS, language is deleted that would have imposed penalty of up to \$25.0 thousand for disclosure of confidential material. The maximum penalty now is \$1.0 thousand and/or imprisonment for up to one year.*

Section 17 establishes definitions as used in the Campaign Reporting Act, in particular that prescribed forms and electronic format are provided by the proposed SEC and proper filing officer is the proposed SEC, not the Secretary of State.

Section 18 amends Section 1-19-26.1 NMSA 1978 related to political committees, in particular that political committees will now file with the proposed SEC and not the Secretary of State.

Section 19 amends Section 1-19-26.2 NMSA 1978 related to the adoption and promulgation of rules to implement the provisions of the Campaign Reporting Act, in particular that this will be the responsibility of the proposed SEC and not the Secretary of State.

Section 20 amends Section 1-19-27 NMSA 1978 related to the filing of reports on campaign contributions and expenditures, in particular that individuals will file reports with the proposed SEC and not the Secretary of State.

Section 21 amends Section 1-19-28 NMSA 1978 related to the provision of campaign contribution and expenditure forms and other similar forms, in particular that individuals will file reports with the proposed SEC and not the Secretary of State.

Section 22 amends Section 1-19-29 NMSA 1978 related to the time and place that reports on campaign contributions and expenditures are filed, in particular that individuals will apply for hardship exemptions with proposed SEC and not the Secretary of State.

Section 23 amends Section 1-19-31 NMSA 1978 related to the format of the required reports on campaign contributions and expenditures, in particular that the proposed SEC will determine that format and not the Secretary of State.

Section 24 amends Section 1-19-32 NMSA 1978, in particular which documents are considered records open to public inspection. The section also substitutes the title of the proposed SEC in those citations where the Secretary of State currently exists.

Section 25 amends Section 1-19-32.1 NMSA 1978 related to the examination of campaign contributions and expenditures, in particular that this would be the responsibility of the SEC and not the Secretary of State.

Section 26 amends Section 1-19-34.4 NMSA 1978 related to the education of the public as to what duties must be adhered to under the Campaign Reporting Act, the conditions under which investigations will be initiated, the conditions under which violations will be determined, the conditions under which penalties will be assessed, and so on, in particular that this would be the responsibility of the SEC and not the Secretary of State.

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Section 28 amends Section 1-19-34.7 NMSA 1978 related to contribution limitations, in particular that it would be the responsibility of the SEC and not the Secretary of State to determine appropriate amounts of contributions.

Section 29 amends Section 1-19-35 NMSA 1978 related to the penalties required for the failure to file or late filing of campaign contribution and expenditure reports, in particular that this would be the responsibility of the SEC and not the Secretary of State.

Section 30 amends Section 1-19A to provide for the short title "Voter Action Act."

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Section 32 amends Section 1-19A-3 NMSA 1978 that individuals declaring an intent to participate in activities that fall under the Voter Action Act, including obtaining campaign financing pursuant to that act, would file declarations of intent with the proposed SEC and not the Secretary of State.

Section 33 amends Section 1-19A-6 NMSA 1978 provides that the certification of applicant candidates is the responsibility of the proposed SEC and not the Secretary of State.

Section 34 amends Section 1-19A-7 NMSA 1978 to state that certified candidates must return unspent or unencumbered funds remaining after an election to the proposed SEC and not the Secretary of State.

Section 35 amends Section 1-19A-9 NMSA 1978 related to the publishing and filing of candidate reporting requirements, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 36 amends Section 1-19A-10 NMSA 1978 related to qualifying contributions deposited into the Public Election Fund, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 37 amends Section 1-19A-11 NMSA 1978 related to the report that documents, evaluates and makes recommendations concerning the Voter Action Act and determines the revenues in the Election Fund and the projected costs for the next election cycle, in particular that this report would be the responsibility of the proposed SEC and not the Secretary of State.

Section 38 amends Section 1-19A-12 NMSA 1978 related to the distribution of election funds to qualified candidates, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 39 amends Section 1-19A-13 NMSA 1978 related to the amount of election funds distribution, in particular that the determination of appropriate amounts would be the responsibility of the proposed SEC and not the Secretary of State.

Section 40 amends Section 1-19A-14 NMSA 1978 related to the issuance of matching funds for qualified candidates, in particular that the issuance of matching funds would be the responsibility of the proposed SEC and not the Secretary of State.

Section 41 amends Section 1-19A-15 NMSA related to the administration of the Voter Action Act, in particular that the administration would be the responsibility of the proposed SEC and not the Secretary of State.

Section 42 amends Section 1-19A-16 NMSA 1978 related to appeals for a challenge of a certification decision, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 43 amends Section 1-19A-17 NMSA 1978 related to penalties applied to individuals who violate provisions of the Voter Action Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 44 amends Section 2-11-2 NMSA 1978 related to definitions used in Lobbyist Regulation Act, and the entity where lobbying-related documents are filed, in particular that this would be the responsibility of the SEC and not the Secretary of State.

Section 45 amends Section 2-11-3 NMSA 1978 related to registration statements required for lobbyists or the employer of lobbyists, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 46 amends Section 2-11-6 NMSA 1978 related to expenditure reports and reporting periods for lobbyists or the employer of lobbyists, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 47 amends Section 2-11-7 NMSA 1978 related to the registration and expenditure statement and the preservation of the statement as a public record, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 48 amends Section 2-11-8.2 NMSA 1978 related to compliance, enforcement, and arbitration under the Lobbyist Regulation Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 49 amends Section 10-15-1 NMSA 1978 related to procedures and exceptions for open public meetings, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State. It also stipulates that meetings of the SEC related to complaints and investigations are closed to the public.

Section 50 amends Section 10-16-11 NMSA 1978 related to codes of conduct for legislative and executive branch employees, in particular that the prescribed codes are the responsibility of and would be filed with the proposed SEC and not the Secretary of State.

Section 51 amends Section 10-16-13.1 NMSA 1978 related to education and compliance of codes established under the Governmental Conduct Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 52 amends Section 10-16-14 NMSA 1978 related to enforcement procedures pursued under the Governmental Conduct Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 53 amends Section 10-16-18 NMSA 1978 related to civil penalties applied as a result of violations of the Governmental Conduct Act, in particular that any suspected violations occurred in the SEC, that the Attorney General may enforce the act.

Section 54 provides for the short title of the Financial Disclosure Act.

Section 55 amends Section 10-16A-3 NMSA 1978 related to declarations of candidacy and financial disclosure statements filed by candidates for legislative and statewide offices, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 56 amends Section 10-16A-4 NMSA 1978 related to disclosures required by public officers or employees of state agencies concerning potential conflicts of interest, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 57 amends Section 10-16A-5 NMSA 1978 related to education and compliance required under the Financial Disclosure Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 58 amends Section 10-16A-6 NMSA 1978 related to enforcement, investigation, fines, and arbitration under the Financial Disclosure Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 59 amends Section 10-16A-8 NMSA 1978 related to enforcement and civil penalties applied under the Financial Disclosure Act, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 60 provides for the short title of the Gift Act.

Section 61 amends Section 10-16B-3 NMSA 1978 related to the limitation of gifts offered by lobbyists or employers of lobbyists and state officers and employees, in particular that this would be the responsibility of the proposed SEC and not the Secretary of State.

Section 62 of the original bill required a report on the possible extension of the responsibilities of the proposed SEC to local governments, including timeline and additional budget required by the proposed SEC. *In the CS, this section is deleted because the language of the CS includes local governments, so no report is necessary.*

Section 63 (*in the CS, Section 62*) requires the transfer of all appropriations, money, records, functions, property, equipment and supplies related to the Campaign Reporting Act, the Voter Action Act, the Lobbyist Regulation Act, the Governmental Conduct Act, the Financial Disclosure Act and the Gift Act from the Secretary of State to the proposed SEC.

Section 64 (*in the CS, Section 62*) appropriates two hundred thousand dollars (\$200,000) from the general fund to carry out provisions established under the legislation. *In the CS, this section is eliminated and no appropriation is made.*

Sections 65, 66 and 67 (*in the CS, now sections 63, 64, and 65*) establish provisions of severability, applicability, and effective dates. Effective date of the provisions remain the same as in the original bill.