

SENATE BILL 261

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

William H. Payne

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO THE NEW MEXICO COMPILATION COMMISSION; CHANGING THE OPERATIONAL MODEL FOR DISTRIBUTIONS OF STATUTORY AND LEGAL PUBLICATIONS TO PROVIDE FOR FREE ONLINE ACCESS TO STATE AND LOCAL AGENCIES, PUBLIC OFFICIALS AND COURTS AND THE GENERAL PUBLIC; PROVIDING FOR THE PUBLICATION OF PRINT VERSIONS OF CERTAIN PUBLICATIONS BY LICENSING AGREEMENTS; REQUIRING THE ATTORNEY GENERAL TO PROVIDE ALL OPINIONS AND ADVISORY LETTERS TO THE COMMISSION; CHANGING THE MEMBERSHIP OF THE COMMISSION; REPEALING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

SECTION 1. Section 8-5-6 NMSA 1978 (being Laws 1979, Chapter 106, Section 1, as amended) is amended to read:

"8-5-6. OPINIONS AND REPORT [~~SALE~~].--The New Mexico compilation commission shall receive all opinions and advisory letters of the attorney general and shall ~~[publish and sell bound annual volumes to officers and agencies of the state and other individuals and entities at a price fixed by the compilation commission. The price fixed by the compilation commission shall not be less than the replacement cost of the volume of opinions plus a markup of not less than twenty-five percent nor more than fifty percent of the replacement cost. Copies of individual opinions may be sold by the compilation commission. All revenue collected from the sale of attorney general opinions shall be credited to the New Mexico compilation fund]~~ maintain the attorney general's opinions and advisory letters as part of the master database of the commission. The attorney general shall provide the commission with an electronic copy of all opinions and advisory letters as issued in a format mutually agreed upon by the commission and the attorney general."

SECTION 2. Section 12-1-2 NMSA 1978 (being Laws 1953, Chapter 39, Section 2, as amended) is amended to read:

"12-1-2. NEW MEXICO COMPILATION COMMISSION--CREATION.--
~~[There is hereby established]~~ The "New Mexico compilation commission" is created. The commission ~~[shall consist]~~

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consists of the chief justice of the supreme court or a justice designated by the chief justice, who shall act as president of the commission; the clerk of the supreme court; the attorney general or a deputy or assistant attorney general designated by the attorney general; ~~[the state records administrator or the administrator's designee]~~ the dean of the university of New Mexico school of law or the dean's designee; the director of the legislative council service; and the president of the SJC → ~~New Mexico state bar association or a member of the state bar commissioners appointed by the president~~ ← SJC SJC → state bar of New Mexico or a bar commissioner designated by the president of the state bar of New Mexico ← SJC."

SECTION 3. Section 12-1-3 NMSA 1978 (being Laws 1977, Chapter 74, Section 2, as amended) is amended to read:

"12-1-3. POWERS OF COMMISSION.--The New Mexico compilation commission, acting on the advice and approval of an advisory committee appointed by the New Mexico supreme court, may:

A. provide for official, annotated compilations of the New Mexico statutes SJC → and ← SJC [~~including~~] court rules [~~governing practice and procedure in the state courts, provide for supplements to the compilations~~] as approved by the supreme court and [~~do~~] all other necessary things pertaining to the

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publication, including online publication, of any compilation and related publications;

B. provide for the [~~sale~~] licensing of the content of [~~any~~] the compilation and [~~the supplements thereto~~] any related publications;

~~[C. provide for exchange of compilations and supplements with exchange libraries of other states and territories;~~

~~D.]~~ C. contract with [~~the~~] a publisher [~~of~~] for any compilation or related publications as may be necessary or desirable to carry out the provisions of this section;

~~[E.]~~ D. do all things necessary to keep current [~~one or more computer databases~~] the master database of publications published or authorized for publication by the compilation commission [~~and parallel tables prepared by the commission for computerized search and manipulation~~]; and

~~[F.]~~ E. hire an executive director, [~~The executive director~~] who shall:

(1) serve as the chief administrative officer of the commission;

(2) serve at the pleasure of the commission;

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(3) carry out the policies established by the commission; and

(4) within available funding, hire such additional staff as necessary to effectuate the powers exercised by the commission."

SECTION 4. Section 12-1-3.1 NMSA 1978 (being Laws 1982, Chapter 7, Section 2, as amended) is amended to read:

"12-1-3.1. ADDITIONAL POWERS OF COMMISSION--MASTER DATABASE.--

A. The New Mexico compilation commission [~~may publish, distribute or sell and~~] shall keep current the automated legal databases, known as the official "master database", of the following legal publications, including any revisions,

~~[A. New Mexico reports;~~

~~B. New Mexico municipal benchbook;~~

~~C. New Mexico magistrate benchbook;~~

~~D. advance]~~ and shall provide free online access to

these publications:

(1) all appellate court opinions and decisions;

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(2) all opinions [compliance guides and informational pamphlets] and advisory letters issued by the attorney general of New Mexico;

[E.] (3) publications of session laws and court [and administrative] rules of this state;

[F. ~~indices of attorney general opinions;~~] and

[G.] (4) parallel tables of New Mexico laws.

B. The commission may license any part of the master database.

C. The commission may include other statutory or legal content in the master database and may license the use of that information or may electronically publish that content on its online website."

SECTION 5. Section 12-1-5 NMSA 1978 (being Laws 1953, Chapter 39, Section 5) is amended to read:

"12-1-5. NEW MEXICO COMPILATION FUND--CREATED.--[There is hereby established in the state treasury a fund to be known as] The "New Mexico compilation fund" is created as a nonreverting fund in the state treasury. The fund consists of filing, licensing and other fees; gifts, grants and donations; appropriations; and any other money credited to the fund. The

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fund shall be administered by the New Mexico compilation commission, and money in the fund is appropriated to the commission to carry out the purposes of Chapter 12, Article 1 NMSA 1978. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the executive director of the commission or the executive director's authorized representative."

SECTION 6. Section 12-1-7 NMSA 1978 (being Laws 1953, Chapter 39, Section 7, as amended) is amended to read:

"12-1-7. RECOGNITION AS OFFICIAL COMPILATION.--Upon the annual certification of the compilation of 1978 [~~or any supplement~~] by the New Mexico compilation commission, with the advice and approval of the advisory committee of the supreme court, the compilation [~~or supplement~~] shall be in force and [~~printed and electronic copies thereof shall be received~~] recognized, referred to and used in all the courts and in all departments and offices of the state as the official compilation of the statutory law of New Mexico and may be cited as the "NMSA 1978", whether printed under an exclusive license of the content of the compilation or published electronically free of charge."

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SECTION 7. Section 12-1-8 NMSA 1978 (being Laws 1977, Chapter 74, Section 5, as amended) is amended to read:

"12-1-8. RULES OF CONSTRUCTION GOVERNING COMPILATION OF STATUTES.--In carrying out the duties provided by law and contract, absent an expressed contrary legislative intent, the [~~secretary~~] executive director of the New Mexico compilation commission and the advisory committee of the supreme court shall be governed by the following rules:

A. if two or more acts are enacted during the same session of the legislature amending the same section of the NMSA, regardless of the effective [~~date~~] dates of the acts, the act last signed by the governor shall be compiled in the NMSA and, if the New Mexico compilation commission, after consultation with the legislative council service, determines that the provisions of one or more of the earlier signed acts can be reconciled with the act that is to be compiled, those provisions shall be incorporated in the last-signed act and compiled in the NMSA. The history following the amended section shall set forth the section, chapter and year of all acts amending the section. A compiler's note shall be included in the annotations setting forth the nature of the difference

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between the acts or sections, if any; and

B. if two or more irreconcilable acts dealing with the same section of law are enacted by the same session of the legislature, the last act signed by the governor shall be presumed to be the law. The act last signed by the governor shall be compiled in the NMSA with an annotation following the compiled section setting forth in full the text of any conflicting section of any earlier signed act."

SECTION 8. Section 34-4-2 NMSA 1978 (being Laws 1966, Chapter 28, Section 28, as amended) is amended to read:

"34-4-2. ~~[SALE OF]~~ APPELLATE COURT REPORTS--INCLUSION IN MASTER DATABASE.--

A. The New Mexico compilation commission shall

~~{(1) receive all opinions of the supreme court and court of appeals;~~

~~{(2) cause them to be published in bound volumes to be known as the New Mexico reports; and~~

~~{(3) sell them to officers and agencies of the state and other individuals and entities at a price fixed by the secretary of the New Mexico compilation commission, except for those volumes distributed free as provided by law. The~~

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~~price fixed by the secretary for volumes of the New Mexico reports shall not be less than the replacement cost of the volumes plus a markup of not less than twenty-five percent nor more than fifty percent of replacement costs.~~

~~B. All money received from the sales of the New Mexico reports shall be paid to the state treasurer for credit to the New Mexico compilation fund, no part of which shall revert at the end of any fiscal year.~~

~~C. The secretary of the New Mexico compilation commission may distribute without charge copies of the supreme court and court of appeals reports to officers and agencies of the federal government and other states, districts, territories or possessions of the United States, in exchange for similar materials needed by the supreme court law library.~~

~~D. Copies of the court reports supplied to officers and agencies of New Mexico remain the property of the state and shall be delivered to their successors] maintain and update all opinions and decisions of the appellate courts in the master database of the commission and provide them free of charge on its online website.~~

B. The courts shall provide the commission with an

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electronic copy of each opinion and decision as it is issued."

SECTION 9. TEMPORARY PROVISIONS--DISPOSAL OF SETS--
CONTRACTS.--

A. On the effective date of this act, all state, local and district officers designated by the New Mexico compilation commission to receive distributions of sets of the compilation, replacement volumes or replacement pamphlets may dispose of such sets according to procedures set out for disposal of surplus property. Sets shall not be delivered or returned to the office of the commission in Santa Fe. The commission shall determine how many full sets of the printed statutes and other publications it will maintain for historical, reference and possible replacement purposes, and the remainder of the sets held by the commission may be disposed of according to procedures set out for the disposal of surplus property.

B. All contracts in effect on the effective date of this act shall continue to be effective until the contract has been completed or the commission decides to terminate the contract.

C. On the effective date of this act, all

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references in law and other legal documents to the New Mexico statutes annotated or the NMSA 1978 shall be deemed to be references to the content of the master database.

SECTION 10. REPEAL.--Sections 8-5-7, 8-5-14, 12-1-4, 12-1-6 and 35-7-6 NMSA 1978 (being Laws 1959, Chapter 20, Section 2, Laws 1959, Chapter 21, Section 7, Laws 1953, Chapter 39, Sections 4 and 6 and Laws 1968, Chapter 62, Section 101, as amended) are repealed.

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is May 3, 2019.

SECTION 12. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.