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SENATE BILL 99

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

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; REMOVING  
REFERENCES TO THE ELECTION OF COMMISSION MEMBERS; PROVIDING FOR  
A DELAYED EFFECTIVE DATE CONTINGENT ON AMENDMENT OF THE  
CONSTITUTION OF NEW MEXICO TO PROVIDE FOR APPOINTMENT OF  
COMMISSION MEMBERS FROM THE STATE AT LARGE; MAKING TECHNICAL  
CONFORMING CHANGES; AMENDING AND REPEALING SECTIONS OF THE NMSA  
1978.

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

**SECTION 1.** Section 1-8-2 NMSA 1978 (being Laws 1969,  
Chapter 240, Section 152, as amended by Laws 2014, Chapter 40,  
Section 3 and by Laws 2014, Chapter 81, Section 3) is amended  
to read:

"1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION--  
DESIGNATED NOMINEES.--

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1           A. If the rules of a minor political party require  
2 nomination by political convention:

3                   (1) the chair and secretary of the state  
4 political convention shall certify to the secretary of state  
5 the names of their party's nominees for United States senator,  
6 United States representative, all elective state offices,  
7 legislative offices elected from multicounty districts, [~~the~~  
8 ~~public regulation commission~~] all elective judicial officers in  
9 the judicial department and all offices representing a district  
10 composed of more than one county; and

11                   (2) the chair and secretary of the county  
12 political convention shall certify to the county clerk the  
13 names of their party's nominees for elected county offices and  
14 for legislative offices elected from a district located wholly  
15 within one county or that is composed of only one county.

16           B. The names certified to the secretary of state  
17 shall be filed on the twenty-third day following the primary  
18 election in the year of the general election and shall be  
19 accompanied by nominating petitions containing the signatures  
20 of voters totaling not less than one percent of the total  
21 number of votes cast for governor at the last preceding general  
22 election at which a governor was elected:

23                   (1) in the state for statewide offices; and

24                   (2) in the district for offices other than  
25 statewide offices.

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1           The petition shall contain a statement that the voters  
2 signing the petition are residents of the area to be  
3 represented by the office for which the person being nominated  
4 is a candidate.

5           C. The names certified to the county clerk shall be  
6 filed on the twenty-third day following the primary election in  
7 the year of the general election and shall be accompanied by a  
8 nominating petition containing the signatures of voters  
9 totaling not less than one percent of the total number of votes  
10 cast for governor at the last preceding general election at  
11 which a governor was elected:

- 12                     (1) in the county for countywide offices; and  
13                     (2) in the district for offices other than  
14 countywide offices.

15           The petition shall contain a statement that the voters  
16 signing the petition are residents of the area to be  
17 represented by the office for which the person being nominated  
18 is a candidate.

19           D. Except in the case of a political party  
20 certified in the year of the election, persons certified as  
21 candidates shall be members of that party on the day the  
22 governor issues the primary election proclamation.

23           E. When a political party is certified in the year  
24 of the general election, and after the day the governor issues  
25 the primary election proclamation, a person certified as a

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1 candidate shall be:

2 (1) a member of that party not later than the  
3 date the political party filed its rules and qualifying  
4 petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

5 (2) a resident in the district of the office  
6 for which the person is a candidate on the date of the  
7 governor's proclamation for the primary election or in the case  
8 of a person seeking the office of United States senator or  
9 United States representative, a resident within New Mexico on  
10 the date of the governor's proclamation for the primary  
11 election. No person who is a candidate for a party in a  
12 primary election may be certified as a candidate for a  
13 different party in the general election in the same election  
14 cycle.

15 F. No voter shall sign a petition prescribed by  
16 this section for more persons than the number of candidates  
17 necessary to fill the office at the next ensuing general  
18 election."

19 SECTION 2. Section 1-8-3 NMSA 1978 (being Laws 1969,  
20 Chapter 240, Section 153, as amended) is amended to read:

21 "1-8-3. NOMINATION BY MINOR POLITICAL PARTY--OTHER  
22 METHODS.--If the rules and regulations of a minor political  
23 party require nomination by a method other than a political  
24 convention:

25 A. the state [~~chairman~~] chair and the governing

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1 board of the state party shall certify to the secretary of  
2 state the names of their party's nominees for United States  
3 senator, United States representative, all elective state  
4 offices, legislative offices elected from multicounty  
5 districts, [~~public regulation commission~~] all elective judicial  
6 officers in the judicial department and all offices  
7 representing a district composed of more than one county;

8 B. the county [~~chairman~~] chair and the governing  
9 board of the county party shall certify to the county clerk the  
10 names of their party's nominees for elected county offices and  
11 for legislative offices elected from a district located wholly  
12 within one county or that is composed of only one county; and

13 C. the names of such nominees shall be filed in the  
14 same time and manner prescribed by the Election Code for  
15 convention-designated nominees of minor political parties, and  
16 each list of names certified shall be accompanied by the  
17 petition containing a list of signatures and addresses of  
18 voters as prescribed for convention-designated nominees."

19 SECTION 3. Section 1-8-13 NMSA 1978 (being Laws 1969,  
20 Chapter 240, Section 162, as amended) is amended to read:

21 "1-8-13. PRIMARY ELECTION LAW--CONTENTS OF  
22 PROCLAMATION.--

23 A. The proclamation calling a primary election  
24 shall contain:

25 [~~A.~~] (1) the names of the major political

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1 parties participating in the primary election;

2 [B-] (2) the offices for which each political  
3 party shall nominate candidates; provided that if any law is  
4 enacted by the legislature in the year in which the primary  
5 election is held and the law does not take effect until after  
6 the date of the proclamation but prior to the date of the  
7 primary election, the proclamation shall conform to the intent  
8 of the law with respect to the offices for which each political  
9 party shall nominate candidates;

10 [G-] (3) the date on which declarations of  
11 candidacy and nominating petitions for United States  
12 representative, any office voted upon by all the voters of the  
13 state, a legislative office, the office of district judge,  
14 district attorney, [~~state board of~~] public education [~~public~~  
15 ~~regulation~~] commission or magistrate shall be filed and the  
16 places where they shall be filed in order to have the  
17 candidates' names printed on the official ballot of their party  
18 at the primary election;

19 [D-] (4) the date on and place at which  
20 declarations of candidacy shall be filed for any other office  
21 and filing fees paid or, in lieu thereof, a pauper's statement  
22 of inability to pay;

23 [E-] (5) the final date on and place at which  
24 candidates for the office of United States representative and  
25 for any statewide office seeking preprimary convention

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1 designation by the major parties shall file petitions and  
2 declarations of candidacy;

3 ~~[F.]~~ (6) the final date on which the major  
4 political parties shall hold state preprimary conventions for  
5 the designation of candidates; and

6 ~~[G.]~~ (7) the final date on and place at which  
7 certificates of designation of primary election candidates  
8 shall be filed by political parties with the secretary of  
9 state.

10 B. As used in the Primary Election Law, "statewide  
11 office" means ~~[any]~~ an office voted on by all the voters of the  
12 state."

13 **SECTION 4.** Section 1-8-25 NMSA 1978 (being Laws 1969,  
14 Chapter 240, Section 170, as amended) is amended to read:

15 "1-8-25. PROPER FILING OFFICER--DECLARATION OF  
16 CANDIDACY--NOMINATING PETITIONS--WITHDRAWAL OF CANDIDACY.--For  
17 the purposes of Chapter 1, Articles 8 and 12 NMSA 1978, the  
18 proper filing officer is:

- 19 A. the secretary of state for the offices of:
- 20 (1) United States senator;
  - 21 (2) United States representative;
  - 22 (3) all state elective offices;
  - 23 (4) legislative offices elected from  
24 multicounty districts;

25 ~~[(5) all public regulation commission~~

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1 ~~districts;~~

2                   ~~(6)~~ (5) all elective judicial offices in the  
3 judicial department, except magistrates; and

4                   ~~[(7)]~~ (6) all offices representing a district  
5 composed of more than one county; and

6           B. the county clerk for the offices of:

7                   (1) all elective county offices;

8                   (2) magistrates; and

9                   (3) legislative offices elected from a  
10 district located wholly within one county or that is composed  
11 of only one county."

12           SECTION 5. Section 1-8-33 NMSA 1978 (being Laws 1973,  
13 Chapter 228, Section 7, as amended) is amended to read:

14           "1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--  
15 NUMBER OF SIGNATURES REQUIRED.--

16           A. As used in this section, "total vote" means the  
17 sum of all votes cast for all of the party's candidates for  
18 governor at the last preceding primary election at which the  
19 party's candidate for governor was nominated.

20           B. Candidates who seek preprimary convention  
21 designation shall file nominating petitions at the time of  
22 filing declarations of candidacy. Nominating petitions for  
23 those candidates shall be signed by a number of voters equal to  
24 at least two percent of the total vote of the candidate's party  
25 in the state or congressional district, or the following number

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1 of voters, whichever is greater: for statewide offices, two  
2 hundred thirty voters; and for congressional candidates,  
3 seventy-seven voters.

4 C. Nominating petitions for candidates for any  
5 other office to be voted on at the primary election for which  
6 nominating petitions are required shall be signed by a number  
7 of voters equal to at least three percent of the total vote of  
8 the candidate's party in the district or division, or the  
9 following number of voters, whichever is greater: for  
10 metropolitan court and magistrate courts, ten voters; ~~[for the~~  
11 ~~public regulation commission, fifty voters]~~ for the public  
12 education commission, twenty-five voters; for state  
13 representative, ten voters; for state senator, seventeen  
14 voters; and for district attorney and district judge, fifteen  
15 voters.

16 D. A candidate who fails to receive the preprimary  
17 convention designation that the candidate sought may collect  
18 additional signatures to total at least four percent of the  
19 total vote of the candidate's party in the state or  
20 congressional district, whichever applies to the office the  
21 candidate seeks, and file a new declaration of candidacy and  
22 nominating petitions for the office for which the candidate  
23 failed to receive a preprimary designation. The declaration of  
24 candidacy and nominating petitions shall be filed with the  
25 secretary of state either ten days following the date of the

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1 preprimary convention at which the candidate failed to receive  
2 the designation or on the date all declarations of candidacy  
3 and nominating petitions are due pursuant to the provisions of  
4 the Primary Election Law, whichever is later."

5 SECTION 6. Section 1-8-36.1 NMSA 1978 (being Laws 1981,  
6 Chapter 156, Section 1, as amended) is amended to read:

7 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

8 A. Write-in candidates are permitted in the primary  
9 election only for the offices of United States representative,  
10 members of the legislature, district judges, district  
11 attorneys, ~~[public regulation commission]~~ public education  
12 commission, magistrates and any office voted upon by all voters  
13 of the state.

14 B. A person may be a write-in candidate only for  
15 nomination by the major political party with which the person  
16 is affiliated as shown by the certificate of registration, and  
17 such person shall have the qualifications to be a candidate in  
18 the primary election for the political party for which the  
19 person is a write-in candidate.

20 C. A person desiring to be a write-in candidate for  
21 one of the offices listed in Subsection A of this section in  
22 the primary election shall file with the proper filing officer  
23 a declaration of intent to be a write-in candidate. Such  
24 declaration of intent shall be filed between 9:00 a.m. and 5:00  
25 p.m. on the third Tuesday in March.

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1           D. A write-in vote shall be counted and canvassed  
2 only if:

3                   (1) the name written in is the name of a  
4 declared write-in candidate and shows two initials and last  
5 name; first name, middle initial or name and last name; first  
6 and last name; or the full name as it appears on the  
7 declaration of intent to be a write-in candidate and  
8 misspellings of the above combinations that can be reasonably  
9 determined by a majority of the members of the precinct board  
10 to identify a declared write-in candidate; and

11                   (2) the name is written on the proper line  
12 provided on the ballot for write-in votes for the office for  
13 which the candidate has filed a declaration of intent and the  
14 voter has followed the directions for casting a vote for the  
15 write-in candidate.

16           E. At the time of filing the declaration of intent  
17 to be a write-in candidate, the write-in candidate shall be  
18 considered a candidate for all purposes and provisions relating  
19 to candidates in the Election Code, including the obligations  
20 to report pursuant to the Campaign Reporting Act, except that  
21 the write-in candidate's name shall not be printed on the  
22 ballot.

23           F. No unopposed write-in candidate shall have the  
24 write-in candidate's nomination certified unless the write-in  
25 candidate receives at least the number of write-in votes in the

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1 primary election as the write-in candidate would need  
2 signatures on a nominating petition pursuant to the  
3 requirements set out in Section 1-8-33 NMSA 1978.

4 G. A write-in vote shall be cast by writing in the  
5 name and following the directions for casting a vote for the  
6 write-in candidate. As used in this section, "write-in" does  
7 not include the imprinting of any name by rubber stamp or  
8 similar device or the use of pre-printed stickers or labels."

9 SECTION 7. Section 1-8-51 NMSA 1978 (being Laws 1977,  
10 Chapter 322, Section 7, as amended) is amended to read:

11 "1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED  
12 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING  
13 PETITIONS--REQUIRED NUMBER OF SIGNATURES.--

14 A. The basis of percentage for the total number of  
15 votes cast in each instance referred to in this section shall  
16 be the total vote cast for governor at the last preceding  
17 general election at which a governor was elected.

18 B. Nominating petitions for an independent  
19 candidate for president of the United States shall be signed by  
20 a number of voters equal to at least three percent of the total  
21 number of votes cast in the state.

22 C. Nominating petitions for an independent  
23 candidate for United States senator or any other statewide  
24 elective office shall be signed by a number of voters equal to  
25 at least three percent of the total number of votes cast in the

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1 state.

2 D. Nominating petitions for an independent  
3 candidate for United States representative shall be signed by a  
4 number of voters equal to at least three percent of the total  
5 number of votes cast in the district.

6 E. Nominating petitions for an independent  
7 candidate for a member of the legislature, [~~public regulation~~  
8 ~~commission~~] district judge, district attorney, member of the  
9 [~~state board of~~] public education commission, magistrate or  
10 county office shall be signed by a number of voters equal to at  
11 least three percent of the total number of votes cast in the  
12 district, division or county, as the case may be.

13 F. A voter shall not sign a petition for an  
14 independent candidate as provided in this section if [~~he~~] the  
15 voter has signed a petition for another independent candidate  
16 for the same office."

17 SECTION 8. Section 1-19A-10 NMSA 1978 (being Laws 2003,  
18 Chapter 14, Section 10, as amended) is amended to read:

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

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

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

24 (2) paying administrative and enforcement  
25 costs of the Voter Action Act; and

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1 (3) carrying out all other specified  
2 provisions of the Voter Action Act.

3 B. The state treasurer shall invest the funds as  
4 other state funds are invested, and all income derived from the  
5 fund shall be credited directly to the fund. Remaining  
6 balances at the end of a fiscal year shall remain in the  
7 election fund and not revert to the general fund.

8 C. Money received from the following sources shall  
9 be deposited directly into the fund:

10 (1) qualifying contributions that have been  
11 submitted to the secretary;

12 (2) any recurring balance of unspent fund  
13 money distributed to a certified candidate who does not remain  
14 a candidate through the primary or general election period for  
15 which the money was distributed;

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

19 (4) money that remains unspent or unencumbered  
20 by a certified candidate following the date of the general  
21 election;

22 (5) unspent seed money that cannot be used for  
23 any other purpose;

24 (6) money distributed to the fund from funds  
25 received pursuant to the Uniform Unclaimed Property Act (1995);

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1 and

2 (7) money appropriated by the legislature.

3 ~~[D. A subaccount shall be established in the fund,~~  
4 ~~and money in the subaccount shall only be used to pay the costs~~  
5 ~~of carrying out the provisions of the Voter Action Act related~~  
6 ~~to public regulation commission elections.~~

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

10 ~~(1) one hundred thousand dollars (\$100,000)~~  
11 ~~from inspection and supervision fees collected pursuant to~~  
12 ~~Section 62-8-8 NMSA 1978; and~~

13 ~~(2) one hundred thousand dollars (\$100,000)~~  
14 ~~from utility and carrier inspection fees collected pursuant to~~  
15 ~~Section 63-7-20 NMSA 1978.]"~~

16 SECTION 9. Section 8-1-1 NMSA 1978 (being Laws 1971,  
17 Chapter 260, Section 1, as amended) is amended to read:

18 "8-1-1. COMPENSATION OF [ELECTIVE] STATE OFFICERS.--

19 A. Annual compensation of [elective] state officers  
20 shall be paid as follows:

21	governor . . . . .	\$110,000
22	secretary of state . . . . .	85,000
23	state auditor . . . . .	85,000
24	state treasurer . . . . .	85,000
25	attorney general . . . . .	95,000

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1 commissioner of public lands . . . . . 90,000  
2 public regulation commissioner . . . . . 90,000.

3 B. Any person succeeding to the office of governor  
4 as provided in Article 5, Section 7 of the constitution of New  
5 Mexico shall receive the salary of the office. Every person  
6 serving as acting governor during the incapacity or absence of  
7 the governor from the state, other than the secretary of state,  
8 shall receive two hundred fifty dollars (\$250) as compensation  
9 for each day's service as acting governor.

10 C. All compensation under this section shall be  
11 paid from the general fund, except that the amount paid to the  
12 commissioner of public lands shall be paid from the state lands  
13 maintenance fund."

14 SECTION 10. Section 8-8-2 NMSA 1978 (being Laws 1998,  
15 Chapter 108, Section 2) is amended to read:

16 "8-8-2. DEFINITIONS.--As used in the Public Regulation  
17 Commission Act:

18 A. "commission" means the public regulation  
19 commission;

20 B. "commissioner" means a person [~~elected or~~]  
21 appointed to the public regulation commission; and

22 C. "person" means an individual, corporation, firm,  
23 partnership, association, joint venture or similar legal  
24 entity."

25 SECTION 11. Section 8-8-3 NMSA 1978 (being Laws 1998,



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1 Chapter 108, Section 3) is amended to read:

2 "8-8-3. PUBLIC REGULATION COMMISSION.--

3 A. The "public regulation commission", created in  
4 Article 11, Section 1 of the constitution of New Mexico, is  
5 composed of five commissioners [~~elected from districts~~]  
6 appointed from the state at large as provided in that article  
7 [~~and the Public Regulation Commission Apportionment Act~~].

8 B. The commission shall annually elect one of its  
9 members [~~chairman~~] chair, who shall preside at hearings. In  
10 the absence of the [~~chairman~~] chair, the commission may appoint  
11 any other member to preside."

12 SECTION 12. Section 8-8-3.1 NMSA 1978 (being Laws 2013,  
13 Chapter 64, Section 1) is amended to read:

14 "8-8-3.1. QUALIFICATIONS OF COMMISSIONERS.--

15 A. In addition to other requirements imposed by  
16 law, in order to be [~~elected or~~] appointed as a commissioner, a  
17 person must be qualified for office by:

18 (1) having at least ten years of professional  
19 experience in an area regulated by the commission or in the  
20 energy sector and involving a scope of work that includes  
21 accounting, public or business administration, economics,  
22 finance, statistics, engineering or law; or

23 (2) having a total of ten years of combined  
24 professional experience as described in Paragraph (1) of this  
25 subsection and higher education resulting in at least a

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1 professional license or a baccalaureate degree from an  
2 institution of higher education that has been accredited by a  
3 regional or national accrediting body in an area regulated by  
4 the commission, including accounting, public or business  
5 administration, economics, finance, statistics, engineering or  
6 law [~~or~~

7 ~~(3) holding the office of commissioner on~~  
8 ~~January 1, 2013].~~

9 B. As used in this section, "professional  
10 experience" means employment in which the [~~candidate or~~]  
11 prospective appointee for commissioner regularly made decisions  
12 requiring discretion and independent judgment and:

13 (1) engaged in policy analysis, research or  
14 implementation in an area regulated by the commission or in the  
15 energy sector;

16 (2) managed, as the head, deputy head or  
17 division director, a federal, state, tribal or local government  
18 department or division responsible for utilities,  
19 transportation or construction; or

20 (3) managed a business or organization  
21 regulated by the commission or in the energy sector that had  
22 five or more employees during the time it was managed by the  
23 candidate or prospective appointee.

24 [~~G. A candidate for election to the office of~~  
25 ~~commissioner shall certify by notarized affidavit that the~~

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1 ~~candidate meets the requirements of Subsection A of this~~  
2 ~~section to be filed with the declaration of candidacy.~~

3 ~~D. A voter may challenge the candidacy for election~~  
4 ~~to the office of commissioner of any person seeking nomination~~  
5 ~~for the reason that the person seeking nomination does not meet~~  
6 ~~the requirements of Subsection A of this section. The~~  
7 ~~challenge shall be made by filing a petition in the district~~  
8 ~~court within ten days after the last day for filing a~~  
9 ~~declaration of candidacy or a statement of candidacy for~~  
10 ~~convention designation, which petition shall be heard in the~~  
11 ~~same manner as provided in Subsection F of Section 1-8-26 NMSA~~  
12 ~~1978.]"~~

13 SECTION 13. Section 8-8-19 NMSA 1978 (being Laws 1998,  
14 Chapter 108, Section 19) is amended to read:

15 "8-8-19. PROHIBITED ACTS--CANDIDATES--COMMISSIONERS AND  
16 EMPLOYEES.--

17 A. As used in this section, in addition to the  
18 definitions provided in Section [2 of the Public Regulation  
19 Commission Act] 8-8-2 NMSA 1978:

20 (1) "affiliated interest" means a person who  
21 directly controls or is controlled by or is under common  
22 control with a regulated entity, including an agent,  
23 representative, attorney, employee, officer, owner, director or  
24 partner of an affiliated interest. For the purposes of this  
25 definition, "control" includes the possession of the power to

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1 direct or cause the direction of the management and policies of  
2 a person, whether directly or indirectly, through the  
3 ownership, control or holding with the power to vote of ten  
4 percent or more of the person's voting securities;

5 (2) "intervenor" means a person who is  
6 intervening as a party in an adjudicatory matter or commenting  
7 in a rulemaking pending before the commission or has intervened  
8 in an adjudicatory or rulemaking matter before the commission  
9 within the preceding twenty-four months, including an agent,  
10 representative, attorney, employee, officer, owner, director,  
11 partner or member of an intervenor;

12 (3) "pecuniary interest" includes owning or  
13 controlling securities; serving as an officer, director,  
14 partner, owner, employee, attorney or consultant; or otherwise  
15 benefiting from a business relationship. "Pecuniary interest"  
16 does not include an investment in a mutual fund or similar  
17 third-party-controlled investment, pension or disability  
18 benefits or an interest in capital credits of a rural electric  
19 cooperative or telephone cooperative because of current or past  
20 patronage; and

21 (4) "regulated entity" means a person whose  
22 charges for services to the public are regulated by the  
23 commission and includes any direct or emerging competitors of a  
24 regulated entity and includes an agent, representative,  
25 attorney, employee, officer, owner, director or partner of the

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1 regulated entity.

2 B. In addition to the requirements of the Financial  
3 Disclosure Act and the Governmental Conduct Act, candidates for  
4 the commission, commissioners and employees of the commission  
5 shall comply with the requirements of this section and Sections  
6 [~~17 and 18 of the Public Regulation Commission Act~~] 8-8-17 and  
7 8-8-18 NMSA 1978, as applicable.

8 [~~G. A candidate for election to the public~~  
9 ~~regulation commission shall not solicit or accept:~~

10 (1) ~~anything of value, either directly or~~  
11 ~~indirectly, from a person whose charges for services to the~~  
12 ~~public are regulated by the commission. For the purposes of~~  
13 ~~this paragraph, "anything of value" includes money, in-kind~~  
14 ~~contributions and volunteer services to the candidate or his~~  
15 ~~campaign organization, but does not include pension or~~  
16 ~~disability benefits; or~~

17 (2) ~~more than five hundred dollars (\$500) per~~  
18 ~~election from any other person.~~

19 ~~D.]~~ C. A commissioner or employee of the commission  
20 shall not:

21 (1) accept anything of value from a regulated  
22 entity, affiliated interest or intervenor. [~~For the purposes~~  
23 ~~of this paragraph, a commissioner may accept allowable campaign~~  
24 ~~contributions when campaigning for reelection.] For the  
25 purposes of this paragraph, "anything of value" does not~~

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underscored material = new  
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1 include:

2 (a) the cost of refreshments totaling no  
3 more than five dollars (\$5.00) a day or refreshments at a  
4 public reception or other public social function that are  
5 available to all guests equally;

6 (b) inexpensive promotional items that  
7 are available to all customers of the regulated entity,  
8 affiliated interest or intervenor; or

9 (c) pension or disability benefits  
10 received from a regulated entity, affiliated interest or  
11 intervenor;

12 (2) have a pecuniary interest in a regulated  
13 entity, affiliated interest or intervenor, and if a pecuniary  
14 interest in an intervenor develops, the commissioner or  
15 employee shall divest [~~himself of~~] that interest or recuse  
16 [~~himself~~] the commissioner or employee from the proceeding with  
17 the intervenor interest; or

18 (3) solicit any regulated entity, affiliated  
19 interest or intervenor to appoint a person to a position or  
20 employment in any capacity.

21 [~~E.~~] D. After leaving the commission:

22 (1) a former commissioner shall not be  
23 employed or retained in a position that requires appearances  
24 before the commission by a regulated entity, affiliated  
25 interest or intervenor within two years of [~~his~~] the former

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1 commissioner's separation from the commission;

2 (2) a former employee shall not appear before  
3 the commission representing a party to an adjudication or a  
4 participant in a rulemaking within one year of ceasing to be an  
5 employee; and

6 (3) a former commissioner or employee shall  
7 not represent a party before the commission or a court in a  
8 matter that was pending before the commission while the  
9 commissioner or employee was associated with the commission and  
10 in which [~~he~~] the former commissioner or employee was  
11 personally and substantially involved in the matter.

12 [~~F-~~] E. The attorney general or a district attorney  
13 may institute a civil action in the district court for Santa Fe  
14 county or, in [~~his~~] the attorney general's or a district  
15 attorney's discretion, the district court for the county in  
16 which a defendant resides if a violation of this section has  
17 occurred or to prevent a violation of this section. A civil  
18 penalty may be assessed in the amount of two hundred fifty  
19 dollars (\$250) for each violation, not to exceed five thousand  
20 dollars (\$5,000)."

21 **SECTION 14. REPEAL.**--Sections 8-7-1 through 8-7-5 and  
22 8-7-11 NMSA 1978 (being Laws 1997, Chapter 262, Sections 1  
23 through 5 and Laws 2001 (1st S.S.), Chapter 3, Section 8, as  
24 amended) are repealed.

25 **SECTION 15. CONTINGENT EFFECTIVE DATE.**--The provisions of  
.211972.1

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

1 this act shall become effective upon certification by the  
2 secretary of state that the constitution of New Mexico has been  
3 amended as proposed by a joint resolution of the first session  
4 of the fifty-fourth legislature, entitled "A JOINT RESOLUTION  
5 PROPOSING TO AMEND ARTICLE 11 OF THE CONSTITUTION OF NEW MEXICO  
6 BY REPEALING SECTION 1 AND ADDING A NEW SECTION 1 TO PROVIDE  
7 FOR THE TRANSITION TO A FIVE-MEMBER FULL-TIME PUBLIC REGULATION  
8 COMMISSION THAT IS APPOINTED FROM THE STATE AT LARGE".

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