

HOUSE BILL 234

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Daymon Ely

AN ACT

RELATING TO INSURANCE; REVISING THE DUTIES OF THE INSURANCE  
NOMINATING COMMITTEE; PROVIDING FOR AN INTERIM SUPERINTENDENT  
OF INSURANCE; REVISING QUALIFICATIONS FOR SUPERINTENDENT OF  
INSURANCE.

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

**SECTION 1.** Section 59A-2-2 NMSA 1978 (being Laws 1984,  
Chapter 127, Section 20, as amended) is amended to read:

"59A-2-2. SUPERINTENDENT--APPOINTMENT--TERM--  
COMPENSATION--REMOVAL.--

A. The position of superintendent of insurance  
shall be the chief officer of the office of superintendent of  
insurance.

B. The superintendent shall be appointed by the  
insurance nominating committee.

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1           C. The superintendent shall serve for a term of  
2 four years, except that the initial term beginning July 1, 2013  
3 shall end on December 31, 2015. [~~If the position of~~  
4 ~~superintendent becomes vacant, the successor shall serve for~~  
5 ~~the remainder of the term~~] An incumbent superintendent may  
6 apply to the insurance nominating committee for appointment to  
7 additional terms.

8           D. The superintendent's annual compensation shall  
9 be subject to legislative appropriation and established by the  
10 insurance nominating committee at the start of each term and  
11 annually thereafter. The superintendent's annual compensation  
12 shall be no lower than that of the lowest-compensated cabinet  
13 secretary and no higher than that of the highest-compensated  
14 cabinet secretary.

15           E. The superintendent shall not be removed except  
16 for incompetence, willful neglect of duty or malfeasance in  
17 office. The insurance nominating committee may remove the  
18 superintendent after providing the superintendent with notice  
19 and a hearing."

20           **SECTION 2.** Section 59A-2-2.1 NMSA 1978 (being Laws 2013,  
21 Chapter 74, Section 15, as amended) is amended to read:

22           "59A-2-2.1. INSURANCE NOMINATING COMMITTEE--DUTIES--  
23 ADMINISTRATIVE ATTACHMENT.--

24           A. The "insurance nominating committee" is created  
25 and consists of nine members, including:

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1 (1) four members who are selected by the New  
2 Mexico legislative council as follows:

3 (a) two members who shall represent the  
4 interests of the insurance industry;

5 (b) two members who shall represent the  
6 interests of insurance consumers and who have experience  
7 advocating on behalf of consumers or the public interest on  
8 insurance issues. These consumer members shall not be employed  
9 by or on behalf of or have a contract with an employer that is  
10 regulated by the office of superintendent of insurance; and

11 (c) no more than two of the four members  
12 shall be from the same political party;

13 (2) four members who are selected by the  
14 governor as follows:

15 (a) two members who shall represent the  
16 interests of the insurance industry;

17 (b) two members who shall represent the  
18 interests of insurance consumers and who have experience  
19 advocating on behalf of consumers or the public interest on  
20 insurance issues. These consumer members shall not be employed  
21 by or on behalf of or have a contract with an employer that is  
22 regulated by the office of superintendent of insurance; and

23 (c) no more than two of the four members  
24 shall be from the same political party; and

25 (3) a ninth member who shall be chair of the

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1 committee and who shall be selected by a majority of the other  
2 eight members; provided that the member shall:

3 (a) not be a candidate for the position  
4 of superintendent of insurance; and

5 (b) be either a former New Mexico  
6 superintendent of insurance or another person with extensive  
7 knowledge of insurance regulation in New Mexico, but does not  
8 have, nor have a spouse or child who has, any direct financial  
9 interest in an insurer, insurance agency or insurance  
10 transaction except as a policyholder or a claimant under a  
11 policy or as an owner of less than one percent of the shares of  
12 an insurer that is a publicly traded corporation.

13 B. A vacancy on the committee shall be filled by  
14 the original appointing authority for the remainder of the  
15 term.

16 C. A committee member shall:

17 (1) be a resident of New Mexico;

18 (2) serve a four-year term; except that a  
19 member of the first committee appointed shall serve for a term  
20 that ends on June 30, 2015; and

21 (3) serve without compensation, but shall be  
22 eligible to receive per diem and mileage pursuant to the  
23 Per Diem and Mileage Act.

24 D. The committee is subject to the Inspection of  
25 Public Records Act and the Open Meetings Act. Individual

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1 members of the committee are subject to the Governmental  
2 Conduct Act and the Financial Disclosure Act.

3 E. The committee shall convene within ninety days  
4 [~~prior to the date on which the term of a superintendent ends~~  
5 ~~and shall appoint a superintendent within sixty days of~~  
6 ~~convening~~] in anticipation of the occurrence of a vacancy in  
7 the superintendent position or the expiration of a  
8 superintendent's term of office.

9 F. Upon the occurrence of a vacancy in the  
10 superintendent position, [~~the committee shall convene within~~  
11 ~~thirty days of the date of the vacancy and shall appoint a~~  
12 ~~successor to fill the remainder of the superintendent's term~~  
13 ~~within sixty days of convening~~] or after the conclusion of the  
14 superintendent's term, the chair of the committee may appoint  
15 an interim superintendent who shall serve until a successor is  
16 duly qualified.

17 G. The committee shall actively solicit, accept and  
18 evaluate applications from qualified individuals for the  
19 position of superintendent and may require an applicant to  
20 submit any information it deems relevant to the consideration  
21 of the individual's application.

22 H. The committee shall appoint the superintendent  
23 by a vote of a majority of all members of the committee.

24 I. The committee shall meet no less often than  
25 annually.

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1           J. The committee is administratively attached to  
2 the office of superintendent of insurance. The office of  
3 superintendent of insurance shall provide staff for the  
4 committee.

5           K. An employee of the office of superintendent of  
6 insurance who serves as staff for the committee shall not  
7 reveal to any person, except another committee staff person,  
8 any requests or statements disclosed in confidence by a  
9 committee member, except that this restriction shall not apply  
10 to any disclosure that is:

11                   (1) protected under the Whistleblower  
12 Protection Act; or

13                   (2) required by law."

14           SECTION 3. Section 59A-2-3 NMSA 1978 (being Laws 1984,  
15 Chapter 127, Section 21, as amended) is amended to read:

16           "59A-2-3. SUPERINTENDENT--QUALIFICATIONS AND BOND.--The  
17 superintendent shall:

18                   ~~[A. be a resident of New Mexico at the time of~~  
19 ~~appointment;~~

20                   ~~B.]~~ A. be bonded as provided in the Surety Bond  
21 Act;

22                   ~~[C.]~~ B. not have a direct financial interest in an  
23 insurer, insurance agency or insurance transaction except as a  
24 policyholder or a claimant under a policy or as an owner of  
25 less than one percent of the shares of an insurer that is a

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publicly traded corporation; and

~~[D-]~~ C. not have a spouse who:

(1) has a direct financial interest in an insurer or insurance agency regulated by the office of superintendent of insurance, except as an owner of less than one percent of the shares of an insurer that is a publicly traded corporation; or

(2) is licensed as an individual by the office of superintendent of insurance."