

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 281

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

AN ACT

RELATING TO PUBLIC UTILITIES; AMENDING SECTIONS OF THE ELECTION
CODE TO REMOVE PUBLIC REGULATION COMMISSIONERS AS ELECTED
OFFICIALS; REPEALING THE PUBLIC REGULATION COMMISSION
APPORTIONMENT ACT; RECOMPILING THE PUBLIC REGULATION COMMISSION
ACT AND AMENDING PROVISIONS OF THAT ACT; CREATING THE PUBLIC
REGULATION COMMISSION NOMINATING COMMITTEE; PROVIDING
PROCEDURES FOR THE PUBLIC REGULATION COMMISSION NOMINATING
COMMITTEE; PROVIDING AGE AND SERVICE REQUIREMENTS FOR NORMAL
RETIREMENT OF APPOINTED PUBLIC REGULATION COMMISSION
COMMISSIONERS.

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

SECTION 1. Section 1-3-12 NMSA 1978 (being Laws 1984 (1st
S.S.), Chapter 3, Section 4, as amended) is amended to read:

"1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

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

1 A. Before each federal decennial census, every
2 precinct shall comply with the requirements of Section 1-3-1
3 NMSA 1978, and if necessary its boundary shall be adjusted to
4 coincide with a feature or a boundary that is:

5 (1) shown on the standard base maps developed
6 pursuant to Subsection B of this section;

7 (2) a designated census block boundary on the
8 proposed federal PL 94-171 2020 census block maps; or

9 (3) approved by the secretary of state and the
10 United States [~~bureau of the~~] census bureau.

11 B. Prior to commencement of the federal decennial
12 census, the secretary of state shall have prepared and shall
13 furnish to each county clerk standard base maps of the county.
14 The standard base map for urban and nonurban areas of the
15 county shall, as nearly as practical, show:

16 (1) all state and federal highways;

17 (2) all numbered and named county roads that
18 have been certified to the department of transportation;

19 (3) all military installation boundaries and
20 federal and state prison boundaries;

21 (4) all major railroad lines;

22 (5) federal, state and county political
23 boundaries, municipal boundaries and school district
24 boundaries;

25 (6) all streets within urban areas; and

1 (7) other major terrain features, such as
2 flowing rivers and streams, arroyos, power lines, pipelines,
3 roads, trails and ridgelines and other acceptable census block
4 boundaries.

5 C. The board of county commissioners, upon receipt
6 of the standard base maps from the secretary of state and upon
7 the recommendation of the county clerk, shall:

8 (1) adjust all precinct boundaries to coincide
9 with numbered or named street boundaries or suitable visible
10 terrain features shown on the standard base map; provided that
11 the precincts shall be composed of contiguous and compact
12 areas, and state, county, municipal, school district and other
13 special district or political boundary lines shall serve as
14 precinct boundaries whenever possible; and

15 (2) upon the completion of the precinct
16 boundary adjustments as required in this section, indicate on
17 the standard base maps the boundaries for both urban and
18 nonurban precincts and, together with a written description of
19 the precincts, shall send an electronic copy to the secretary
20 of state for approval.

21 D. The precincts shown upon the standard base maps
22 submitted pursuant to the provisions of this section and as
23 revised and approved by the secretary of state pursuant to the
24 Precinct Boundary Adjustment Act shall become the official
25 precincts of each county for the 2021 redistricting. For the

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1 2022 and subsequent statewide elections, changes in precincts
2 shall be made in accordance with the provisions of Chapter 1,
3 Article 3 NMSA 1978.

4 E. In the same calendar year in which the state
5 receives the results of a federal decennial census, the state
6 legislature shall redistrict federal representative districts,
7 each chamber of the legislature, [~~public regulation commission~~
8 ~~districts~~] public education commission districts and any other
9 state districts requiring redistricting.

10 F. In the calendar year following the receipt of
11 the results of a federal decennial census, each local public
12 body subject to districting shall create or redraw districts
13 for the local public body. A local public body, when creating
14 or redrawing districts, shall not split a precinct into two or
15 more districts for any elected office unless necessary to
16 comply with federal law or to preserve communities of
17 interest."

18 SECTION 2. Section 1-8-2 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 152, as amended) is amended to read:

20 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
21 CONVENTION--DESIGNATED NOMINEES.--

22 A. If the rules of a minor political party require
23 nomination by political convention:

24 (1) the chair and secretary of the state
25 political convention shall certify to the secretary of state

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

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

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

19 (1) in the state for statewide offices; and
20 (2) in the district for offices other than
21 statewide offices.

22 The petition shall contain a statement that the voters
23 signing the petition are residents of the area to be
24 represented by the office for which the person being nominated
25 is a candidate.

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

8 (1) in the county for countywide offices; and

9 (2) in the district for offices other than
10 countywide offices.

11 The petition shall contain a statement that the voters
12 signing the petition are residents of the area to be
13 represented by the office for which the person being nominated
14 is a candidate.

15 D. Except in the case of a political party
16 certified in the year of the election, persons certified as
17 candidates shall be members of that party on the day the
18 secretary of state issues the general election proclamation.

19 E. When a political party is certified in the year
20 of the general election, and after the day the secretary of
21 state issues the general election proclamation, a person
22 certified as a candidate shall be:

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

.217738.1

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

11 F. No voter shall sign a petition prescribed by
 12 this section for more persons than the number of candidates
 13 necessary to fill the office at the next ensuing general
 14 election."

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

17 "1-8-3. NOMINATION BY MINOR POLITICAL PARTY--OTHER
 18 METHODS.--If the rules and regulations of a minor political
 19 party require nomination by a method other than a political
 20 convention:

21 A. the state [~~chairman~~] chair and the governing
 22 board of the state party shall certify to the secretary of
 23 state the names of their party's nominees for United States
 24 senator, United States representative, all elective state
 25 offices, legislative offices elected from multicounty

.217738.1

1 districts, [~~public regulation commission~~] all elective judicial
2 officers in the judicial department and all offices
3 representing a district composed of more than one county;

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

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

15 SECTION 4. Section 1-8-13 NMSA 1978 (being Laws 1969,
16 Chapter 240, Section 162, as amended) is amended to read:

17 "1-8-13. PRIMARY ELECTION LAW--CONTENTS OF
18 PROCLAMATION.--The general election proclamation calling a
19 primary and general election shall contain:

20 A. the names of the major political parties
21 participating in the primary election;

22 B. the offices to be elected at the general
23 election and for which each political party shall nominate
24 candidates; provided that if any law is enacted by the
25 legislature in the year in which the primary election is held

1 and the law does not take effect until after the date to amend
2 the proclamation but prior to the date to fill vacancies
3 pursuant to Section 1-8-7 or 1-8-8 NMSA 1978, the secretary of
4 state shall conform the proclamation to the intent of the law
5 with respect to the offices for which each political party
6 shall nominate candidates;

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

17 D. the date on and place at which declarations of
18 candidacy shall be filed for any other office and filing fees
19 paid or, in lieu thereof, a pauper's statement of inability to
20 pay;

21 E. the final date on and place at which candidates
22 for the office of United States representative and for any
23 statewide office seeking preprimary convention designation by
24 the major parties shall file petitions and declarations of
25 candidacy;

.217738.1

1 F. the final date on which the major political
2 parties shall hold state preprimary conventions for the
3 designation of candidates;

4 G. the final date on and place at which
5 certificates of designation of primary election candidates
6 shall be filed by political parties with the secretary of
7 state;

8 H. the date on which declarations of candidacy for
9 minor party candidates shall be filed and the places where the
10 declarations of candidacy shall be filed in order to have the
11 minor party candidate names printed on the official ballot of
12 the general election;

13 I. the date on which declarations of candidacy for
14 unaffiliated candidates shall be filed and the places where the
15 declarations of candidacy shall be filed in order to have the
16 unaffiliated candidate names printed on the official ballot of
17 the general election;

18 J. the date on which declarations of candidacy for
19 nonpartisan judicial retention shall be filed and the places
20 where the declarations of candidacy shall be filed in order to
21 have the judicial retention names printed on the official
22 ballot of the general election; and

23 K. the date on which declarations to be a write-in
24 candidate are to be filed and the places where the declarations
25 of candidacy shall be filed in order to have write-in votes

1 counted and canvassed at the political party primary or general
2 election."

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

5 "1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--
6 NUMBER OF SIGNATURES REQUIRED.--

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

11 B. Candidates who seek preprimary convention
12 designation shall file nominating petitions at the time of
13 filing declarations of candidacy. Nominating petitions for
14 those candidates shall be signed by a number of voters equal to
15 at least two percent of the total vote of the candidate's party
16 in the state or congressional district, or the following number
17 of voters, whichever is greater: for statewide offices, two
18 hundred thirty voters; and for congressional candidates,
19 seventy-seven voters.

20 C. Nominating petitions for candidates for any
21 other office to be voted on at the primary election for which
22 nominating petitions are required shall be signed by a number
23 of voters equal to at least three percent of the total vote of
24 the candidate's party in the district or division, or the
25 following number of voters, whichever is greater: for

.217738.1

1 metropolitan court and magistrate courts, ten voters; [~~for the~~
2 ~~public regulation commission, fifty voters~~] for the public
3 education commission, twenty-five voters; for state
4 representative, ten voters; for state senator, seventeen
5 voters; and for district attorney and district judge, fifteen
6 voters.

7 D. A candidate who fails to receive the preprimary
8 convention designation that the candidate sought may collect
9 additional signatures to total at least four percent of the
10 total vote of the candidate's party in the state or
11 congressional district, whichever applies to the office the
12 candidate seeks, and file a new declaration of candidacy and
13 nominating petitions for the office for which the candidate
14 failed to receive a preprimary designation. The declaration of
15 candidacy and nominating petitions shall be filed with the
16 secretary of state either ten days following the date of the
17 preprimary convention at which the candidate failed to receive
18 the designation or on the date all declarations of candidacy
19 and nominating petitions are due pursuant to the provisions of
20 the Primary Election Law, whichever is later."

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

23 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

24 A. Write-in candidates are permitted in the primary
25 election only for the offices of United States representative,

.217738.1

1 members of the legislature, district judges, district
2 attorneys, [~~public regulation commission~~] public education
3 commission, magistrates and any office voted upon by all voters
4 of the state.

5 B. A person may be a write-in candidate only for
6 nomination by the major political party with which the person
7 is affiliated as shown by the certificate of registration, and
8 such person shall have the qualifications to be a candidate in
9 the primary election for the political party for which the
10 person is a write-in candidate.

11 C. A person desiring to be a write-in candidate for
12 one of the offices listed in Subsection A of this section in
13 the primary election shall file with the proper filing officer
14 a declaration of intent to be a write-in candidate. Such
15 declaration of intent shall be filed between 9:00 a.m. and 5:00
16 p.m. on the third Tuesday in March.

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

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

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1 "1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
2 STATES REPRESENTATIVE ELECTIONS--NOMINATING PETITIONS--REQUIRED
3 NUMBER OF SIGNATURES.--

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

8 B. Nominating petitions for an independent
9 candidate for president of the United States shall be signed by
10 a number of voters equal to the number of signatures required
11 to form a new political party.

12 C. Nominating petitions for an independent
13 candidate for United States senator or any other statewide
14 elective office shall be signed by a number of voters equal to
15 at least two percent of the total number of votes cast in the
16 state.

17 D. Nominating petitions for an independent
18 candidate for United States representative shall be signed by a
19 number of voters equal to at least two percent of the total
20 number of votes cast in the district.

21 E. Nominating petitions for an independent
22 candidate for a member of the legislature, [~~public regulation~~
23 ~~commission~~] district judge, district attorney, member of the
24 public education commission, magistrate or county office shall
25 be signed by a number of voters equal to at least two percent

.217738.1

1 of the total number of votes cast in the district, division or
2 county, as the case may be.

3 F. When a vacancy for any office occurs on the
4 general election ballot pursuant to Section 1-8-7 or 1-8-8 NMSA
5 1978 in which all political parties may name a general election
6 candidate or when a vacancy occurs in the office of United
7 States representative pursuant to Section 1-15-18.1 NMSA 1978,
8 an independent candidate may file a declaration of candidacy on
9 or by the same deadline applicable to the political parties.
10 The nominating petitions for an independent candidate in such
11 circumstances shall be signed by the number of voters provided
12 in this section, unless there are fewer than:

13 (1) sixty days from the announcement of the
14 vacancy to the last day to file a declaration of candidacy, in
15 which case an independent candidate shall submit nominating
16 petitions signed by a number of voters equal to two-thirds the
17 number of voters otherwise required by this section for an
18 independent candidate; or

19 (2) thirty days from the announcement of the
20 vacancy to the last day to file a declaration of candidacy, in
21 which case an independent candidate shall submit nominating
22 petitions signed by a number of voters equal to one-third the
23 number of voters otherwise required by this section for an
24 independent candidate.

25 G. A voter shall not sign a petition for an

.217738.1

1 independent candidate as provided in this section if the voter
2 has signed a petition for another independent candidate for the
3 same office."

4 SECTION 8. Section 1-10-8 NMSA 1978 (being Laws 2019,
5 Chapter 212, Section 103) is amended to read:

6 "1-10-8. BALLOTS--ORDER OF OFFICES AND BALLOT
7 QUESTIONS.--

8 A. In the year in which the president of the United
9 States is elected, the ballot in a primary election and general
10 election shall contain, when applicable, partisan offices to be
11 voted on in the following order:

12 (1) in a presidential primary, president;

13 (2) in a general election, president and vice
14 president as a ticket;

15 (3) United States senator;

16 (4) United States representative;

17 (5) state senator;

18 (6) state representative;

19 (7) supreme court;

20 (8) court of appeals;

21 [~~(9) public regulation commission districts~~
22 ~~with odd-numbered designations;~~

23 ~~(10)] (9) public education commission
24 districts with odd-numbered designations;~~

25 [~~(11)] (10) district court;~~

1 [~~(12)~~] (11) metropolitan court;
 2 [~~(13)~~] (12) county clerk;
 3 [~~(14)~~] (13) county treasurer; and
 4 [~~(15)~~] (14) county commission districts and
 5 positions with odd-numbered designations.

6 B. In the year in which the governor is elected,
 7 the ballot in a primary election and general election shall
 8 contain, when applicable, partisan offices to be voted on in
 9 the following order:

- 10 (1) United States senator;
 11 (2) United States representative;
 12 (3) in a major political party primary,
 13 governor;
 14 (4) in a major political party primary,
 15 lieutenant governor;
 16 (5) in a general election, governor and
 17 lieutenant governor as a ticket;
 18 (6) secretary of state;
 19 (7) attorney general;
 20 (8) state auditor;
 21 (9) state treasurer;
 22 (10) commissioner of public lands;
 23 (11) state representative;
 24 (12) supreme court;
 25 (13) court of appeals;

.217738.1

1 [~~(14)~~] ~~public regulation commission districts~~
2 ~~with even-numbered designations;~~

3 ~~(15)]~~ (14) public education commission
4 districts with even-numbered designations;

5 [~~(16)]~~ (15) district court;

6 [~~(17)]~~ (16) district attorney;

7 [~~(18)]~~ (17) metropolitan court;

8 [~~(19)]~~ (18) magistrate court;

9 [~~(20)]~~ (19) county sheriff;

10 [~~(21)]~~ (20) county assessor;

11 [~~(22)]~~ (21) county commission districts and
12 positions with even-numbered designations; and

13 [~~(23)]~~ (22) probate judge.

14 C. The ballot in a regular local election shall
15 contain, when applicable, nonpartisan offices to be voted on in
16 the following order:

17 (1) municipal, with elective executive
18 officers listed first, governing board members listed second
19 and judicial officers listed third;

20 (2) board of education of a school district;

21 (3) community college, branch community
22 college, technical and vocational institute district or
23 learning center district; and

24 (4) special districts listed in order by
25 voting population of each special district, with the most

1 populous listed first and the least populous listed last.

2 D. The ballot in a statewide election shall
3 contain, when applicable, nonpartisan judicial retention and in
4 a statewide or special election, when applicable, ballot
5 questions to be voted on in the following order, unless a
6 different order is prescribed by the secretary of state:

- 7 (1) judicial retention;
- 8 (2) proposed state constitutional amendments;
- 9 (3) other state ballot questions;
- 10 (4) county ballot questions; and
- 11 (5) local government ballot questions listed

12 in the same order as the list of local governments in
13 Subsection C of this section.

14 E. When multiple positions for the same nonjudicial
15 office are listed on the same ballot and each position is to be
16 elected individually:

17 (1) offices designated by district number
18 shall appear on the ballot in ascending numerical order of the
19 districts;

20 (2) offices not designated by district number
21 shall appear on the ballot in ascending numerical order of the
22 position; provided that the secretary of state shall
23 numerically designate the positions on the ballot as "position
24 one", "position two" and such additional consecutively numbered
25 positions as are necessary, and only one member shall be

.217738.1

1 elected for each position; and

2 (3) whenever two or more positions for the
3 same office are to be elected to represent the same area with
4 terms of different lengths of time, the secretary of state
5 shall first group the offices with the shorter length of time
6 and shall designate each position with "for a term expiring
7 ___", specifying the date the term expires.

8 F. When multiple positions for the same judicial
9 office are listed on the same ballot and each position is to be
10 elected or voted on individually:

11 (1) district, metropolitan and magistrate
12 court positions, either for partisan election or for
13 nonpartisan judicial retention, shall appear on the ballot in
14 ascending numerical order of the division number assigned to
15 each position;

16 (2) supreme court and court of appeals for
17 partisan election shall appear on the ballot in ascending
18 numerical order of the position number designated by the
19 secretary of state for that election, based on the date of the
20 vacancy causing the position to be listed on the ballot;
21 provided that if multiple vacancies occurred on the same day,
22 the positions shall appear on the ballot based on the order of
23 seniority of the justice or judge who vacated the position,
24 with the highest seniority listed first; and

25 (3) supreme court and court of appeals for

1 nonpartisan judicial retention shall appear on the ballot in
2 ascending numerical order of the position number designated by
3 the secretary of state for that election, based on the
4 seniority of the justice or judge seeking retention, with the
5 highest seniority listed first."

6 SECTION 9. Section 1-14-24 NMSA 1978 (being Laws 2008,
7 Chapter 41, Section 1, as amended) is amended to read:

8 "1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND
9 FEDERAL OFFICES--PROCEDURES.--

10 A. An automatic recount of the vote is required
11 when the canvass of returns indicates that the margin between
12 the two candidates receiving the greatest number of votes for
13 an office, the margin between those supporting and those
14 opposing a ballot question or the margin affecting the outcome
15 of a nonpartisan judicial retention election is less than:

16 (1) one-fourth percent of the total votes cast
17 in that election:

18 (a) for that office in the case of a
19 federal or statewide office;

20 (b) on a ballot question in the case of
21 a state ballot question; or

22 (c) on a nonpartisan judicial retention
23 election in the case of the supreme court or the court of
24 appeals;

25 (2) one-half percent of the total votes cast

.217738.1

1 in that election:

2 (a) for that office in the case of a
3 [~~public regulation commissioner~~] public education commissioner,
4 district attorney or any office elected countywide in a county
5 with more than one hundred fifty thousand registered voters;

6 (b) on a ballot question in the case of
7 a local ballot question; or

8 (c) on a nonpartisan judicial retention
9 election in the case of a district court or the metropolitan
10 court; or

11 (3) one percent of the total votes cast in
12 that election for that office in the case of any other office.

13 B. For an office for which ballots were cast in
14 more than one county, the secretary of state shall file notice
15 with the state canvassing board upon the completion of the
16 state canvass that an automatic recount is required, and the
17 state canvassing board shall order a recount of the ballots for
18 the specified office. For an office in which ballots were cast
19 solely within one county, the secretary of state shall file
20 notice with the state canvassing board within seven days after
21 receiving notice from the county clerk following the completion
22 of the county canvass that an automatic recount is required,
23 and the state canvassing board shall order a recount of the
24 ballots for the specified office.

25 C. Automatic recounts shall be conducted pursuant

1 to the recount procedures established in Sections 1-14-16 and
2 1-14-18 through 1-14-23 NMSA 1978."

3 SECTION 10. Section 1-19A-2 NMSA 1978 (being Laws 2003,
4 Chapter 14, Section 2, as amended) is amended to read:

5 "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

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

9 B. "certified candidate" means a candidate running
10 for a covered office who chooses to obtain financing pursuant
11 to the Voter Action Act and is certified as a Voter Action Act
12 candidate;

13 C. "contested" means there are more candidates for
14 a position than the number to be elected to that position;

15 D. "contribution" means a gift, subscription, loan,
16 advance or deposit of money or other thing of value, including
17 the estimated value of an in-kind contribution, that is made or
18 received for the purpose of supporting or opposing the
19 nomination for election or election of a candidate for public
20 office, including payment of a debt incurred in an election
21 campaign and also including a coordinated expenditure, but
22 "contribution" does not include:

23 (1) a qualifying contribution;

24 (2) the value of services provided without
25 compensation or unreimbursed travel or other personal expenses

.217738.1

1 of individuals who volunteer a portion or all of their time on
2 behalf of a candidate; or

3 (3) the value of the incidental use of the
4 candidate's personal property, home or business office for
5 campaign purposes;

6 E. "coordinated expenditure" means an expenditure
7 that is made:

8 (1) by a person other than a candidate or
9 campaign committee;

10 (2) at the request or suggestion of, or in
11 cooperation, consultation or concert with, a candidate,
12 campaign committee or political party or any agent or
13 representative of such a candidate, campaign committee or
14 political party; and

15 (3) for the purpose of:

16 (a) supporting or opposing the
17 nomination or election of a candidate; or

18 (b) paying for an advertisement that
19 refers to a clearly identified candidate and that is published
20 and disseminated to the relevant electorate in New Mexico
21 within thirty days before the primary election or sixty days
22 before the general election in which the candidate is on the
23 ballot;

24 F. "covered office" means any office of the
25 judicial department subject to statewide elections [~~and the~~

1 ~~office of public regulation commissioner];~~

2 G. "expenditure" means a payment, transfer or
3 distribution of, or a promise to pay, transfer or distribute,
4 any money or other thing of value for the purpose of supporting
5 or opposing the nomination or election of a candidate;

6 H. "fund" means the public election fund;

7 I. "qualifying contribution" means a donation of
8 five dollars (\$5.00) in the form of cash, a check, a money
9 order or an electronic form of payment, as prescribed by the
10 secretary, and payable to the fund in support of an applicant
11 candidate that is:

12 (1) made by a voter who is eligible to vote
13 for the covered office that the applicant candidate is seeking;

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

17 (3) acknowledged by a receipt that identifies
18 the contributor's name and residential address on forms
19 provided by the bureau of elections and that is signed by the
20 contributor, one copy of which is attached to the list of
21 contributors and sent to the bureau of elections;

22 J. "qualifying period" means:

23 (1) for candidates who are seeking public
24 financing for a primary election or for both a primary and a
25 general election, the period beginning October 1 immediately

.217738.1

1 preceding the election year and ending at 5:00 p.m. on the
2 third Tuesday of March of the election year; and

3 (2) for candidates who are seeking public
4 financing only for a general election, the period beginning
5 January 1 of the election year and ending that year at 5:00
6 p.m. on the twenty-third day following the primary election for
7 the office for which the candidate is running; and

8 K. "secretary" means the secretary of state or the
9 office of the secretary of state."

10 SECTION 11. Section 1-19A-4 NMSA 1978 (being Laws 2003,
11 Chapter 14, Section 4, as amended) is amended to read:

12 "1-19A-4. QUALIFYING CONTRIBUTIONS.--

13 A. Applicant candidates for all statewide judicial
14 elective offices shall obtain qualifying contributions [~~as~~
15 ~~follows:~~

16 ~~(1) for all statewide judicial elective~~
17 ~~offices, the number of qualifying contributions]~~ equal to one-
18 tenth of one percent of the number of voters in the state [~~and~~

19 ~~(2) for the office of public regulation~~
20 ~~commissioner, the number of qualifying contributions equal to~~
21 ~~one-tenth of one percent of the number of voters in the~~
22 ~~district of the office for which the candidate is running].~~

23 B. Applicant candidates may accept qualifying
24 contributions from persons who become registered within the
25 statutory time frame that would enable [~~that person]~~ those

1 persons to vote in the primary election.

2 C. Voters registered as independent are not
3 excluded from making qualifying contributions but shall be
4 registered within the statutory time frame as independent.

5 D. No payment, gift or anything of value shall be
6 given in exchange for a qualifying contribution."

7 SECTION 12. Section 1-19A-10 NMSA 1978 (being Laws 2003,
8 Chapter 14, Section 10, as amended) is amended to read:

9 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

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

14 (2) paying administrative and enforcement
15 costs of the Voter Action Act; and

16 (3) carrying out all other specified
17 provisions of the Voter Action Act.

18 B. The state treasurer shall invest the funds as
19 other state funds are invested, and all income derived from the
20 fund shall be credited directly to the fund. Remaining
21 balances at the end of a fiscal year shall remain in the fund
22 and not revert to the general fund.

23 C. Money received from the following sources shall
24 be deposited directly into the fund:

25 (1) qualifying contributions that have been

.217738.1

1 submitted to the secretary;

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

6 (3) money that remains unspent or unencumbered
7 by a certified candidate following the date of the primary
8 election;

9 (4) money that remains unspent or unencumbered
10 by a certified candidate following the date of the general
11 election;

12 (5) unspent contributions to a candidate;

13 (6) money distributed to the fund from funds
14 received pursuant to the Uniform Unclaimed Property Act (1995);
15 and

16 (7) money appropriated by the legislature or
17 as otherwise provided by law.

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

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

25 ~~(1) one hundred thousand dollars (\$100,000)~~

1 ~~from inspection and supervision fees collected pursuant to~~
 2 ~~Section 62-8-8 NMSA 1978; and~~

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

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

8 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

9 A. By September 1 of each odd-numbered year, the
 10 secretary shall determine the amount of money to be distributed
 11 to each certified candidate for the election cycle ending with
 12 the next general election, based on the type of election and
 13 the provisions of Subsections B through G of this section.

14 B. For contested primary elections, the amount of
 15 money to be distributed to a certified candidate is equal to
 16 ~~[the following:~~

17 ~~(1) for the office of public regulation~~
 18 ~~commissioner, twenty-five cents (\$.25) for each voter of the~~
 19 ~~candidate's party in the district of the office for which the~~
 20 ~~candidate is running; and~~

21 ~~(2) for the office of justice of the supreme~~
 22 ~~court and judge of the court of appeals] fifteen cents (\$.15)~~
 23 for each voter of the candidate's party in the state.

24 C. For uncontested primary elections in which
 25 another candidate has filed a declaration of candidacy for

.217738.1

underscored material = new
 [bracketed material] = delete

1 nomination in another party's primary for the same office and
2 that candidate's primary is contested, the amount of money to
3 be distributed to a certified candidate is equal to twenty
4 percent of the amount specified in Subsection B of this
5 section.

6 D. For uncontested primary elections in which
7 another candidate has filed a declaration of candidacy for
8 nomination in another party's primary for the same office, but
9 no primary for the office is contested, the amount of money to
10 be distributed to a certified candidate is equal to the average
11 of the amount each candidate would receive pursuant to
12 Subsection B of this section.

13 E. For contested general elections, the amount of
14 money to be distributed to a certified candidate is equal to
15 ~~[the following:~~

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

19 ~~(2) for the office of justice of the supreme~~
20 ~~court and judge of the court of appeals] fifteen cents (\$.15)~~
21 for each voter in the state.

22 F. If a general election race that is initially
23 uncontested later becomes contested because of the
24 qualification of a candidate for that race, an amount of money
25 shall be distributed to the certified candidate to make that

1 candidate's distribution amount equal to the amount distributed
2 pursuant to Subsection E of this section.

3 G. Once the certification for candidates for the
4 primary election has been completed, the secretary shall
5 calculate the total amount of money to be distributed in the
6 primary election cycle, based on the number of certified
7 candidates and the allocations specified in this section. The
8 secretary shall also prepare an estimate of the total amount of
9 money that might be distributed in the general election cycle.
10 If the total amount to be distributed in the primary election
11 cycle and the estimated total amount to be distributed in the
12 general election cycle taken together exceed the amount
13 expected to be available in the fund, the secretary shall
14 allocate the amount available between the primary and general
15 election cycles. This allocation shall be based on the ratio
16 of the two total amounts.

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

24 I. At least every two years after January 1, 2007,
25 the secretary shall evaluate and modify as necessary the dollar

.217738.1

1 values originally determined by Subsections B through F of this
2 section and shall increase the amounts by the percentage of the
3 preceding two calendar years' increase of the consumer price
4 index for all urban consumers, United States city average for
5 all items, published by the United States department of labor.

6 J. No money shall be distributed to candidates in
7 judicial retention elections, and except as provided in
8 Subsections C, D and F of this section, no money shall be
9 distributed to a candidate in an uncontested election."

10 SECTION 14. Section 8-1-1 NMSA 1978 (being Laws 1971,
11 Chapter 260, Section 1, as amended) is amended to read:

12 "8-1-1. COMPENSATION OF ELECTIVE STATE OFFICERS.--

13 A. Annual compensation of elective state officers
14 shall be paid as follows:

15	governor	\$110,000
16	secretary of state	85,000
17	state auditor	85,000
18	state treasurer	85,000
19	attorney general	95,000
20	commissioner of public lands	90,000
21	public regulation commissioner	90,000

22 B. Any person succeeding to the office of governor
23 as provided in Article 5, Section 7 of the constitution of New
24 Mexico shall receive the salary of the office. Every person
25 serving as acting governor during the incapacity or absence of

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1 the governor from the state, other than the secretary of state,
 2 shall receive two hundred fifty dollars (\$250) as compensation
 3 for each day's service as acting governor.

4 C. All compensation under this section shall be
 5 paid from the general fund, except that the amount paid to the
 6 commissioner of public lands shall be paid from the state lands
 7 maintenance fund."

8 SECTION 15. Section 8-8-1 NMSA 1978 (being Laws 1998,
 9 Chapter 108, Section 1, as amended) is recompiled as part of
 10 Chapter 62, Article 19 NMSA 1978 and is amended to read:

11 "SHORT TITLE.--~~[Chapter 8, Article 8]~~ Chapter 62, Article
 12 19 NMSA 1978 may be cited as the "Public Regulation Commission
 13 Act"."

14 SECTION 16. Section 8-8-2 NMSA 1978 (being Laws 1998,
 15 Chapter 108, Section 2) is recompiled as part of the Public
 16 Regulation Commission Act and is amended to read:

17 "DEFINITIONS.--As used in the Public Regulation Commission
 18 Act:

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

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

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

.217738.1

1 SECTION 17. Section 8-8-3 NMSA 1978 (being Laws 1998,
2 Chapter 108, Section 3) is recompiled as part of the Public
3 Regulation Commission Act and is amended to read:

4 "PUBLIC REGULATION COMMISSION.--

5 A. The "public regulation commission", created in
6 Article 11, Section 1 of the constitution of New Mexico, is
7 composed of [~~five~~] three commissioners [~~elected from districts~~]
8 appointed by the governor with the consent of the senate as
9 provided in that article [~~and the Public Regulation Commission~~
10 ~~Apportionment Act~~].

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

15 SECTION 18. A new section of the Public Regulation
16 Commission Act is enacted to read:

17 "[NEW MATERIAL] PUBLIC REGULATION COMMISSION NOMINATING
18 COMMITTEE.--

19 A. The "public regulation commission nominating
20 committee" is created and consists of seven members who are:

21 (1) knowledgeable about public utility
22 regulation;

23 (2) not employed by or on behalf of or have a
24 contract with a public utility that is regulated by the
25 commission;

.217738.1

1 (3) not applicants or nominees for a position
2 on the commission; and

3 (4) appointed as follows:

4 (a) four members appointed one each by
5 the speaker of the house of representatives, the minority floor
6 leader of the house of representatives, the majority floor
7 leader of the senate and the minority floor leader of the
8 senate, with no more than two members being from the same
9 political party;

10 (b) two members appointed one each by
11 the secretary of energy, minerals and natural resources and the
12 secretary of economic development; and

13 (c) one member who is a member of an
14 Indian nation, tribe or pueblo appointed by the governor.

15 B. A committee member shall:

16 (1) be a resident of New Mexico;

17 (2) serve a four-year term; and

18 (3) serve without compensation, but shall be
19 reimbursed for expenses incurred in pursuit of the member's
20 duties on the committee pursuant to the Per Diem and Mileage
21 Act.

22 C. The committee and individual members shall be
23 subject to the Governmental Conduct Act, the Inspection of
24 Public Records Act, the Financial Disclosure Act and the Open
25 Meetings Act.

.217738.1

1 D. Administrative support shall be provided to the
2 committee by the staff of the commission.

3 E. Initial appointments to the committee shall be
4 made by the appointing authorities prior to July 1, 2022.
5 Subsequent appointments shall be made no later than thirty days
6 before the end of a term.

7 F. The first meeting of the appointed members of
8 the committee shall be held prior to September 1, 2022. The
9 committee shall select one member to be chair and one member to
10 be secretary. Following the first meeting, the committee shall
11 meet as often as necessary in order to submit a list to the
12 governor of no fewer than five qualified nominees for
13 appointment to the commission for the terms beginning January
14 1, 2023. The list shall be developed to provide geographical
15 diversity, and nominees on the list shall be from at least
16 three different counties of the state.

17 G. Subsequent to January 1, 2023, the committee
18 shall meet at least ninety days prior to the date on which the
19 term of a commissioner ends and as often as necessary
20 thereafter in order to submit a list to the governor, at least
21 thirty days prior to the beginning of the new term, of no fewer
22 than two qualified nominees from diverse geographical areas of
23 the state for appointment to the commission for each
24 commissioner position term that is ending.

25 H. Upon the occurrence of a vacancy in a

1 commissioner position, the committee shall meet within thirty
2 days of the date of the beginning of the vacancy and as often
3 as necessary thereafter in order to submit a list to the
4 governor, within sixty days of the first meeting after the
5 vacancy occurs, of no fewer than two qualified nominees from
6 diverse geographical areas of the state for appointment to the
7 commission to fill the remainder of the term of each
8 commissioner position that is vacant.

9 I. If a position on the committee becomes vacant
10 during a term, a successor shall be selected in the same manner
11 as the original appointment for that position and shall serve
12 for the remainder of the term of the position vacated.

13 J. The committee shall actively solicit, accept and
14 evaluate applications from qualified individuals for a position
15 on the commission and may require an applicant to submit any
16 information it deems relevant to the consideration of the
17 individual's application.

18 K. The committee shall select nominees for
19 submission to the governor who, in the committee's judgment,
20 are best qualified to serve as a member of the commission.

21 L. A majority vote of all members of the committee
22 in favor of a person is required for that person to be included
23 on the list of qualified nominees submitted to the governor."

24 SECTION 19. Section 8-8-3.1 NMSA 1978 (being Laws 2013,
25 Chapter 64, Section 1, as amended) is recompiled as part of the

.217738.1

1 Public Regulation Commission Act and is amended to read:

2 "QUALIFICATIONS OF COMMISSIONERS.--

3 A. ~~[In addition to other requirements imposed by~~
4 ~~law]~~ Commissioners shall be persons who are independent of the
5 industries regulated by the commission and shall possess
6 demonstrated competence.

7 B. In order to be ~~[elected or]~~ appointed as a
8 commissioner, a person must be qualified for office by:

9 (1) having a baccalaureate degree from an
10 institution of higher education that has been accredited by a
11 regional or national accrediting body and at least ten years of
12 professional experience in an area regulated by the commission
13 or in the energy sector and involving a scope of work that
14 includes accounting, public or business administration,
15 economics, finance, statistics, policy, engineering or law; or

16 (2) having ~~[a total of ten years of combined~~
17 ~~professional experience as described in Paragraph (1) of this~~
18 ~~subsection and]~~ higher education resulting in at least a
19 professional license or a ~~[baccalaureate]~~ post-graduate degree
20 from an institution of higher education that has been
21 accredited by a regional or national accrediting body in a
22 field related to an area regulated by the commission, including
23 accounting, public or business administration, economics,
24 finance, statistics, policy, engineering or law, and at least
25 ten years of professional experience within the person's field.

1 C. A commissioner shall not have a financial
2 interest in a public utility in this state or elsewhere and
3 shall not have been employed by a commission-regulated entity
4 at any time during the two years prior to appointment to the
5 commission.

6 D. Commissioners shall give their entire time to
7 the business of the commission and shall not pursue any other
8 business or vocation or hold any other office for profit.

9 ~~[B.]~~ E. 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,
14 consumer advocacy or implementation in an area regulated by the
15 commission or in the 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, energy
19 policy, 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~~

.217738.1

1 ~~candidate meets the requirements of Subsection A of this~~
2 ~~section to be filed with the declaration of candidacy. The~~
3 ~~affidavit shall be on a form provided by the secretary of state~~
4 ~~that shall permit a candidate to list with particularity the~~
5 ~~candidate's specific professional experience or higher~~
6 ~~education that meets the requirements of Subsection A of this~~
7 ~~section.~~

8 ~~D. A voter may challenge the candidacy for election~~
9 ~~to the office of commissioner of any person seeking nomination~~
10 ~~for the reason that the person seeking nomination does not meet~~
11 ~~the requirements of Subsection A of this section or that the~~
12 ~~affidavit of the person seeking nomination does not contain~~
13 ~~sufficient information to determine if the person meets the~~
14 ~~requirements of Subsection A of this section. The challenge~~
15 ~~shall be made by filing a petition in the district court within~~
16 ~~ten days after the last day for filing a declaration of~~
17 ~~candidacy or a statement of candidacy for convention~~
18 ~~designation, which petition shall be heard in the same manner~~
19 ~~as provided in Subsection E of Section 1-8-26 NMSA 1978.]"~~

20 SECTION 20. Section 8-8-3.2 NMSA 1978 (being Laws 2013,
21 Chapter 64, Section 2) is recompiled as part of the Public
22 Regulation Commission Act and is amended to read:

23 "CONTINUING EDUCATION REQUIREMENTS FOR COMMISSIONERS.--

24 A. Beginning July 1, 2013, a commissioner shall
25 complete:

.217738.1

1 (1) an ethics certificate course provided in
2 person or online by a New Mexico public post-secondary
3 educational institution in the first twelve-month period after
4 taking office and at least one two-hour ethics course in each
5 subsequent twelve-month period that the commissioner serves in
6 office; and

7 (2) at least thirty-two hours of continuing
8 education relevant to the work of the commission in each
9 twelve-month period that the commissioner serves in office.
10 Continuing education courses shall be endorsed by the national
11 association of regulatory utility commissioners or by the
12 relevant licensing or professional association for a qualifying
13 area of study for degree holders pursuant to this section.

14 B. A commissioner shall be responsible for having
15 the endorsing organization submit certification of completion
16 of the hours of education required pursuant to Subsection A of
17 this section to the commission's chief of staff.

18 C. ~~[As an exception to Section 8-1-1 NMSA 1978]~~ If
19 a commissioner fails to comply with the education requirements
20 in Subsection A of this section by the last day of a
21 twelve-month period, the commissioner's compensation for
22 performing the duties of the office shall be withheld by the
23 commission until the requirements for the preceding
24 twelve-month period or periods have been met."

25 SECTION 21. Section 8-8-18 NMSA 1978 (being Laws 1998,

.217738.1

1 Chapter 108, Section 18) is recompiled as part of the Public
2 Regulation Commission Act and is amended to read:

3 "RECUSAL OF COMMISSIONER OR HEARING EXAMINER.--

4 A. A commissioner or hearing examiner shall self
5 recuse [~~himself~~] in any adjudicatory proceeding in which [~~he~~]
6 the commissioner or hearing examiner is unable to make a fair
7 and impartial decision or in which there is reasonable doubt
8 about whether [~~he~~] the commissioner or hearing examiner can
9 make a fair and impartial decision, including:

10 (1) when [~~he~~] the commissioner or hearing
11 examiner has a personal bias or prejudice concerning a party or
12 its representative or has prejudged a disputed evidentiary fact
13 involved in a proceeding prior to hearing. For the purposes of
14 this paragraph, "personal bias or prejudice" means a
15 predisposition toward a person based on a previous or ongoing
16 relationship, including a professional, personal, familial or
17 other intimate relationship, that renders the commissioner or
18 hearing examiner unable to exercise [~~his~~] the commissioner's or
19 hearing examiner's functions impartially;

20 (2) when [~~he~~] the commissioner or hearing
21 examiner has a pecuniary interest in the outcome of the
22 proceeding other than as a customer of a party;

23 (3) when in previous employment [~~he~~] the
24 commissioner or hearing examiner served as an attorney,
25 adviser, consultant or witness in the matter in controversy; or

1 (4) when, as a [~~candidate for~~] nominee for
 2 appointment to the office of public regulation commissioner,
 3 [~~he~~] the nominee announced how [~~he~~] the nominee would rule on
 4 the adjudicatory proceeding or a factual issue in the
 5 adjudicatory proceeding.

6 B. If a commissioner or hearing examiner fails to
 7 self recuse [~~himself~~] when it appears that grounds exist, a
 8 party shall promptly notify the commissioner or hearing
 9 examiner of the apparent grounds for recusal. If the
 10 commissioner or hearing examiner declines to self recuse
 11 [~~himself~~] upon request of a party, [~~he~~] the commissioner or
 12 hearing examiner shall provide a full explanation in support of
 13 [~~his~~] the refusal [~~to recuse himself~~]."

14 SECTION 22. Section 8-8-19 NMSA 1978 (being Laws 1998,
 15 Chapter 108, Section 19) is recompiled as part of the Public
 16 Regulation Commission Act and is amended to read:

17 "PROHIBITED ACTS--~~[CANDIDATES]~~ NOMINEES--COMMISSIONERS AND
 18 EMPLOYEES.--

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

22 (1) "affiliated interest" means a person who
 23 directly controls or is controlled by or is under common
 24 control with a regulated entity, including an agent,
 25 representative, attorney, employee, officer, owner, director or

.217738.1

1 partner of an affiliated interest. For the purposes of this
2 definition, "control" includes the possession of the power to
3 direct or cause the direction of the management and policies of
4 a person, whether directly or indirectly, through the
5 ownership, control or holding with the power to vote of ten
6 percent or more of the person's voting securities;

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

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

23 (4) "regulated entity" means a person whose
24 charges for services to the public are regulated by the
25 commission and includes any direct or emerging competitors of a

.217738.1

1 regulated entity and includes an agent, representative,
 2 attorney, employee, officer, owner, director or partner of the
 3 regulated entity.

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

10 C. A [~~candidate for election~~] nominee for
 11 appointment to the [~~public regulation~~] commission shall not
 12 solicit or accept

13 [~~(1)~~] anything of value, either directly or
 14 indirectly, from a person whose charges for services to the
 15 public are regulated by the commission. For the purposes of
 16 this [~~paragraph~~] subsection, "anything of value" includes
 17 money, in-kind contributions and volunteer services to the
 18 [~~candidate or his campaign~~] nominee or the nominee's
 19 organization, but does not include pension or disability
 20 benefits [~~or~~

21 ~~(2) more than five hundred dollars (\$500) per~~
 22 ~~election from any other person].~~

23 D. A commissioner or employee of the commission
 24 shall not:

25 (1) accept anything of value from a regulated

.217738.1

1 entity, affiliated interest or intervenor. [~~For the purposes~~
2 ~~of this paragraph, a commissioner may accept allowable campaign~~
3 ~~contributions when campaigning for reelection.~~] For the
4 purposes of this paragraph, "anything of value" does not
5 include:

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

10 (b) inexpensive promotional items that
11 are available to all customers of the regulated entity,
12 affiliated interest or intervenor; or

13 (c) pension or disability benefits
14 received from a regulated entity, affiliated interest or
15 intervenor;

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

21 (3) solicit any regulated entity, affiliated
22 interest or intervenor to appoint a person to a position or
23 employment in any capacity.

24 E. After leaving the commission:

25 (1) a former commissioner shall not be

1 employed or retained in a position that requires appearances
 2 before the commission by a regulated entity, affiliated
 3 interest or intervenor within two years of [~~his~~] the former
 4 commissioner's separation from the commission;

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

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

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

24 **SECTION 23.** Section 10-11-26.2 NMSA 1978 (being Laws
 25 1994, Chapter 128, Section 3, as amended) is amended to read:

.217738.1

1 "10-11-26.2. STATE GENERAL MEMBER COVERAGE PLAN 3--AGE
2 AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

3 A. Under state general member coverage plan 3:

4 (1) for a member who on or before June 30,
5 2013 was a peace officer and for a member who is not a peace
6 officer but was a retired member or a member on June 30, 2013,
7 the age and service credit requirements for normal retirement
8 are:

9 (a) age sixty-five years or older and
10 five or more years of service credit;

11 (b) age sixty-four years and eight or
12 more years of service credit;

13 (c) age sixty-three years and eleven or
14 more years of service credit;

15 (d) age sixty-two years and fourteen or
16 more years of service credit;

17 (e) age sixty-one years and seventeen or
18 more years of service credit;

19 (f) age sixty years and twenty or more
20 years of service credit; or

21 (g) any age and twenty-five or more
22 years of service credit;

23 (2) for a member who is not a peace officer
24 and was not a retired member or a member on June 30, 2013, the
25 age and service requirements for normal retirement are:

.217738.1

1 (a) age sixty-five years or older and
2 eight or more years of service credit; or

3 (b) any age if the member has eight or
4 more years of service credit and the sum of the member's age
5 and years of service credit equals at least eighty-five; ~~and~~

6 (3) for a member who on or after July 1, 2013
7 becomes a peace officer and who was not a retired member or a
8 member on June 30, 2013, the age and service requirements for
9 normal retirement are:

10 (a) age sixty years or older and six or
11 more years of service credit; or

12 (b) any age and twenty-five or more
13 years of service credit; and

14 (4) for a member who on or after January 1,
15 2023 becomes a public regulation commission commissioner, who
16 was not a retired member or a member prior to January 1, 2023
17 and whose service credit is limited to service as a
18 commissioner, the age and service requirement for normal
19 retirement is age sixty-five years or older and six or more
20 years of service credit.

21 B. As used in this section, "peace officer" means
22 any employee of the state with a duty to maintain public order
23 or to make arrests for crime, whether that duty extends to all
24 crimes or is limited to specific crimes, and who is not
25 specifically covered by another coverage plan."

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1 **SECTION 24. TEMPORARY PROVISION.**--Sections 8-8-4 through
2 8-8-17 and 8-8-20 NMSA 1978 (being Laws 1998, Chapter 108,
3 Section 4; Laws 2009, Chapter 216, Section 1; Laws 1998,
4 Chapter 108, Sections 5 through 8; Laws 2001, Chapter 80,
5 Section 1; Laws 2007, Chapter 161, Section 4; Laws 1998,
6 Chapter 108, Sections 10 through 12; Laws 2000, Chapter 100,
7 Section 1 and Laws 2000, Chapter 102, Section 1; and Laws 1998,
8 Chapter 108, Sections 13 through 17 and 20, as amended) are
9 recompiled as part of the Public Regulation Commission Act.

10 **SECTION 25. REPEAL.**--Sections 8-7-1 through 8-7-11 NMSA
11 1978 (being Laws 1997, Chapter 262, Sections 1 through 5 and
12 Laws 2001 (1st S.S.), Chapter 3, Section 8, as amended) are
13 repealed.

14 **SECTION 26. CONTINGENT EFFECTIVE DATE.**--The provisions of
15 this act shall become effective on the following dates upon
16 certification by the secretary of state that the constitution
17 of New Mexico has been amended as proposed by a joint
18 resolution of the first session of the fifty-fourth
19 legislature, entitled "A JOINT RESOLUTION PROPOSING TO AMEND
20 THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT THE PUBLIC
21 REGULATION COMMISSION CONSIST OF THREE MEMBERS APPOINTED BY THE
22 GOVERNOR FROM A LIST OF PROFESSIONALLY QUALIFIED NOMINEES
23 SUBMITTED TO THE GOVERNOR BY A NOMINATING COMMITTEE AS PROVIDED
24 BY LAW AND THAT THE COMMISSION IS REQUIRED TO REGULATE PUBLIC
25 UTILITIES AND MAY BE REQUIRED TO REGULATE OTHER PUBLIC SERVICE

.217738.1

1 COMPANIES". If the certification occurs, the effective date of
2 the provisions of:

3 A. Sections 1 through 17 and 19 through 25 of this
4 act is January 1, 2023; and

5 B. Section 18 of this act is January 1, 2022.

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