

HOUSE BILL 244

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Greg Nibert and Daymon Ely

AN ACT

RELATING TO ETHICS; CLARIFYING ADMINISTRATIVE AND ENFORCEMENT
DUTIES OF THE STATE ETHICS COMMISSION AND SECRETARY OF STATE
WITH RESPECT TO THE CAMPAIGN REPORTING ACT, VOTER ACTION ACT,
FINANCIAL DISCLOSURE ACT AND LOBBYIST REGULATION ACT; PROVIDING
FOR PENALTIES; PROVIDING RULEMAKING AUTHORITY; REQUIRING STATE
ETHICS COMMISSION COMMISSIONERS TO FILE ANNUAL FINANCIAL
DISCLOSURE STATEMENTS PURSUANT TO THE FINANCIAL DISCLOSURE ACT;
REMOVING THE REQUIREMENT THAT COMPLAINTS FILED WITH THE STATE
ETHICS COMMISSION BE NOTARIZED; CLARIFYING THE VENUE PROVISION
FOR ETHICS COMPLAINT COURT ACTIONS; REQUIRING ACKNOWLEDGMENT OF
RESPONSIBILITIES BY POLITICAL COMMITTEE TREASURERS; PROVIDING
FOR THE RESIGNATION AND REPLACEMENT OF TREASURERS.

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

SECTION 1. Section 1-19-26.1 NMSA 1978 (being Laws 1993,

.218442.9SA

underscoring material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

1 Chapter 46, Section 2, as amended) is amended to read:

2 "1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--
3 DISCLOSURES--PENALTIES--

4 A. It is unlawful for a political committee to
5 continue to receive or make any contribution or expenditure for
6 a political purpose if the committee fails to meet the
7 requirements of Subsections B and C of this section.

8 B. A political committee shall appoint and maintain
9 a treasurer, file a statement of organization with the
10 secretary of state and pay a filing fee of fifty dollars
11 (\$50.00).

12 C. A statement of organization required by
13 Subsection B of this section shall be made under oath on a
14 prescribed form showing:

15 (1) the full name of the committee, which
16 shall fairly and accurately reflect the identity of the
17 committee, including any sponsoring organization, and its
18 address;

19 (2) a statement of the purpose for which the
20 committee was organized;

21 (3) the names and addresses of the officers of
22 the committee; and

23 (4) an identification of any bank account used
24 by the committee to receive or make contributions or make
25 expenditures.

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 D. Any changes to the information provided in the
2 statement of organization shall be reported to the secretary of
3 state within ten days.

4 E. If a political committee fails to update the
5 statement of organization within the time prescribed in
6 Subsection D of this section, the political committee is
7 subject to a fine of five hundred dollars (\$500).

8 F. A state political party shall furnish to the
9 secretary of state a list of each county political party
10 associated with it and the names and contact information of the
11 county party officers as submitted to the state political
12 party. The list shall be updated quarterly if there have been
13 any reported changes.

14 [~~E.~~] G. The provisions of this section do not apply
15 to a political committee that is located in another state and
16 is registered with the federal election commission if the
17 political committee reports on federal reporting forms filed
18 with the federal election commission all expenditures for and
19 contributions made to reporting individuals in New Mexico and
20 files with the secretary of state, according to the schedule
21 required for the filing of forms with the federal election
22 commission, a copy of either the full report or the cover sheet
23 and the portions of the federal reporting forms that contain
24 the information on expenditures for and contributions made to
25 reporting individuals in New Mexico."

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 SECTION 2. Section 1-19-32.1 NMSA 1978 (being Laws 1981,
2 Chapter 331, Section 9, as amended) is amended to read:

3 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF REPORTS.--

4 A. The secretary of state shall conduct a thorough
5 examination of at least ten percent of all reports filed
6 during a year by reporting individuals, selected at random at
7 least forty days after the general election and ten days after
8 the April reports are filed in a non-election year, to
9 determine compliance with the provisions of the Campaign
10 Reporting Act. The examination may include an investigation of
11 any discrepancies, including a cross-reference to reports filed
12 by any other reporting individual. A reporting individual
13 shall be notified in writing if a discrepancy is found in the
14 report filed and shall be permitted to file a written
15 explanation for the discrepancy and come into voluntary
16 compliance within ten working days of the date of the notice.

17 [~~The notice, penalty and arbitration provisions set forth in~~
18 ~~Section 1-19-34.4 NMSA 1978 shall apply to examinations~~
19 ~~conducted under this section.~~]

20 B. After the date stated in the notice [~~of final~~
21 ~~action~~] for submission of a written explanation, the secretary
22 of state shall prepare an annual report of any unresolved
23 discrepancies found after examination of the random sample
24 provided for in Subsection A of this section. A copy of this
25 report shall be transmitted to the state ethics commission and

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 the attorney general for enforcement pursuant to the provisions
2 of [~~Section~~] Sections 1-19-34.6 and 1-19-36 NMSA 1978. This
3 report is a public record open to public inspection and subject
4 to the retention and destruction provisions set forth in
5 Section 1-19-32 NMSA 1978."

6 SECTION 3. Section 1-19-34.4 NMSA 1978 (being Laws 1993,
7 Chapter 46, Section 15, as amended) is amended to read:

8 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--
9 INVESTIGATIONS--~~[BINDING ARBITRATION]~~ REFERRALS FOR
10 ENFORCEMENT.--

11 A. The secretary of state shall advise and seek to
12 educate all persons required to perform duties under the
13 Campaign Reporting Act of those duties. This includes advising
14 all known reporting individuals at least annually of that act's
15 deadlines for submitting required reports and statements of
16 [~~exception~~] no activity. The [~~secretary of state, in~~
17 ~~consultation with the attorney general~~] state ethics
18 commission, in consultation with the secretary of state, shall
19 issue advisory opinions, when requested in writing to do so, on
20 matters concerning that act. [~~All prescribed forms prepared~~
21 ~~shall be clear and easy to complete.~~]

22 B. The secretary of state may conduct examinations
23 of reports filed pursuant to Section 1-19-29 NMSA 1978 and the
24 state ethics commission may initiate investigations to
25 determine whether any provision of the Campaign Reporting Act

.218442.9SA

underscored material = new
[bracketed material] = delete

1 has been violated. [~~Additionally, any person who believes that~~
2 ~~a provision of that act has been violated may file a written~~
3 ~~complaint with the secretary of state any time prior to ninety~~
4 ~~days after an election, except that no complaints from the~~
5 ~~public may be filed within eight days prior to an election.~~
6 ~~The secretary of state shall adopt procedures for issuing~~
7 ~~advisory opinions and processing complaints and notifications~~
8 ~~of violations.]~~

9 C. Any person who believes that a provision of the
10 Campaign Reporting Act has been violated may file a written
11 complaint with the state ethics commission pursuant to the
12 terms of the State Ethics Commission Act. If the commission
13 has jurisdiction for the complaint, the state ethics commission
14 shall refer the complaint to the secretary of state. Upon
15 referral, the secretary of state shall attempt to achieve
16 voluntary compliance with the Campaign Reporting Act. Within
17 thirty-five days after receiving the complaint from the state
18 ethics commission, the secretary of state shall return the
19 complaint to the state ethics commission and certify to the
20 state ethics commission whether voluntary compliance was
21 achieved. If the secretary of state certifies voluntarily
22 compliance, the state ethics commission shall dismiss the
23 complaint or that part of the complaint alleging a violation of
24 the Campaign Reporting Act. If the secretary of state does not
25 certify voluntarily compliance, the state ethics commission

.218442.9SA

underscored material = new
[bracketed material] = delete

1 shall proceed with the complaint pursuant to the terms of the
2 State Ethics Commission Act.

3 ~~[G.]~~ D. The secretary of state and the state ethics
4 commission shall at all times seek to ensure voluntary
5 compliance with the provisions of the Campaign Reporting Act.

6 ~~[If the secretary of state determines that a provision of that~~
7 ~~act for which a penalty may be imposed has been violated, the~~
8 ~~secretary of state shall by written notice set forth the~~
9 ~~violation and the fine imposed and inform the reporting~~
10 ~~individual that he has ten working days from the date of the~~
11 ~~letter to correct the matter and to provide a written~~
12 ~~explanation, under penalty of perjury, stating any reason why~~
13 ~~the violation occurred. If a timely explanation is filed and~~
14 ~~the secretary of state determines that good cause exists to~~
15 ~~waive the fine imposed, the secretary of state may by a written~~
16 ~~notice of final action partially or fully waive any fine~~
17 ~~imposed for any late, incomplete or false report or statement~~
18 ~~of exception. A written notice of final action shall be sent~~
19 ~~by certified mail.~~

20 ~~D.~~ Upon receipt of the notice of final action, the
21 person against whom the penalty has been imposed may protest
22 the secretary of state's determination, including an advisory
23 opinion, by submitting on a prescribed form a written request
24 for binding arbitration to the secretary of state within ten
25 working days of the date of the notice of final action. Any

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 ~~fine imposed shall be due and payable within ten working days~~
2 ~~of the date of notice of final action. No additional fine~~
3 ~~shall accrue pending the issuance of the arbitration decision.~~
4 ~~Fines paid pursuant to a notice of final action that are~~
5 ~~subsequently reduced or dismissed shall be reimbursed with~~
6 ~~interest within ten working days after the filing of the~~
7 ~~arbitration decision with the secretary of state. Interest on~~
8 ~~the reduced or dismissed portion of the fine shall be the same~~
9 ~~as the rate of interest earned by the secretary of state's~~
10 ~~escrow account to be established by the department of finance~~
11 ~~and administration.~~

12 E. ~~An arbitration hearing shall be conducted by a~~
13 ~~single arbitrator selected within ten days by the person~~
14 ~~against whom the penalty has been imposed from a list of five~~
15 ~~arbitrators provided by the secretary of state. Neither the~~
16 ~~secretary of state nor a person subject to the Campaign~~
17 ~~Reporting Act, Lobbyist Regulation Act or Financial Disclosure~~
18 ~~Act may serve as an arbitrator. Arbitrators shall be~~
19 ~~considered to be independent contractors, not public officers~~
20 ~~or employees, and shall not be paid per diem and mileage.~~

21 F. ~~The arbitrator shall conduct the hearing within~~
22 ~~thirty days of the request for arbitration. The arbitrator may~~
23 ~~impose any penalty the secretary of state is authorized to~~
24 ~~impose. The arbitrator shall state the reasons for his~~
25 ~~decision in a written document that shall be a public record.~~

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 ~~The decision shall be final and binding. The decision shall be~~
2 ~~issued and filed with the secretary of state within thirty days~~
3 ~~of the conclusion of the hearing. Unless otherwise provided~~
4 ~~for in this section or by rule or regulation adopted by the~~
5 ~~secretary of state, the procedures for the arbitration shall be~~
6 ~~governed by the Uniform Arbitration Act. No arbitrator shall~~
7 ~~be subject to liability for actions taken pursuant to this~~
8 ~~section.~~

9 G.] E. At any time, the secretary of state may
10 refer a matter to the state ethics commission, the attorney
11 general or a district attorney for a civil injunctive or other
12 appropriate order or to the attorney general or a district
13 attorney for criminal enforcement."

14 SECTION 4. Section 1-19-34.6 NMSA 1978 (being Laws 1995,
15 Chapter 153, Section 19, as amended) is amended to read:

16 "1-19-34.6. CIVIL PENALTIES.--

17 A. If the secretary of state exhausts efforts in
18 seeking voluntary compliance and reasonably believes that a
19 person committed, or is about to commit, a violation of the
20 Campaign Reporting Act, the secretary of state shall refer the
21 matter to the state ethics commission, the attorney general or
22 a district attorney for enforcement; provided, however, that if
23 the secretary of state waives the imposition of a fine pursuant
24 to Subsection D of Section 1-19-35 NMSA 1978, the matter shall
25 not be referred.

.218442.9SA

underscored material = new
[bracketed material] = delete

1 B. With or without a referral from the secretary of
2 state, the state ethics commission, the attorney general or
3 district attorney may institute a civil action in district
4 court for any violation of the Campaign Reporting Act or to
5 prevent a violation of that act that involves an unlawful
6 solicitation or the making or acceptance of an unlawful
7 contribution. An action for relief may include a permanent or
8 temporary injunction, a restraining order or any other
9 appropriate order, including a civil penalty of up to one
10 thousand dollars (\$1,000) for each violation not to exceed a
11 total of twenty thousand dollars (\$20,000), and forfeiture of
12 any contribution received as a result of an unlawful
13 solicitation or unlawful contribution. Each unlawful
14 solicitation and each unlawful contribution made or accepted
15 shall be deemed a separate violation of the Campaign Reporting
16 Act.

17 C. With or without a referral from the secretary of
18 state, the state ethics commission, the attorney general or
19 district attorney may institute a civil action in district
20 court if a violation has occurred or to prevent a violation of
21 any provision of the Campaign Reporting Act other than that
22 specified in Subsection B of this section. Relief may include
23 a permanent or temporary injunction, a restraining order or any
24 other appropriate order, including an order for a civil penalty
25 of up to one thousand dollars (\$1,000) for each violation not

.218442.9SA

underscored material = new
[bracketed material] = delete

1 to exceed a total of twenty thousand dollars (\$20,000)."

2 SECTION 5. Section 1-19-34.8 NMSA 1978 (being Laws 2019,
3 Chapter 86, Section 19) is amended to read:

4 "1-19-34.8. STATE ETHICS COMMISSION--JURISDICTION.--

5 A. On and after January 1, 2020:

6 (1) the state ethics commission shall have
7 jurisdiction to investigate and adjudicate a complaint alleging
8 a civil violation of a provision of the Campaign Reporting Act
9 in accordance with the provisions of that act; and

10 (2) the ~~[state ethics commission shall share~~
11 ~~jurisdiction to investigate and adjudicate complaints, or any~~
12 ~~aspect of a complaint, with the secretary of state as~~
13 ~~formalized through an agreement. The]~~ secretary of state shall
14 forward complaints it receives alleging violations of the
15 Campaign Reporting Act to the state ethics commission in
16 accordance with the provisions of the Campaign Reporting Act
17 and a formalized agreement.

18 B. The state ethics commission and the secretary of
19 state shall make recommendations to the ~~[first session of the~~
20 ~~fifty-fifth]~~ legislature on any changes to the Campaign
21 Reporting Act necessary for the efficient administration and
22 enforcement of the provisions of that act."

23 SECTION 6. Section 1-19-35 NMSA 1978 (being Laws 1979,
24 Chapter 360, Section 11, as amended) is amended to read:

25 "1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY--
.218442.9SA

underscored material = new
[bracketed material] = delete

1 FAILURE TO FILE.--

2 A. Except for the report required to be filed and
3 delivered the Thursday prior to the election and any
4 supplemental report, as required in Paragraph (5) of Subsection
5 B of Section 1-19-29 NMSA 1978, [~~that is due prior to the~~
6 ~~election, and subject to the provisions of Section 1-19-34.4~~
7 ~~NMSA 1978~~] if a statement of no activity or a report of
8 expenditures and contributions [~~contains false or incomplete~~
9 ~~information~~] is not filed or is filed after any deadline
10 imposed by the Campaign Reporting Act, the responsible
11 reporting individual or political committee [~~in addition to any~~
12 ~~other penalties or remedies prescribed by the Election Code~~]
13 shall be liable for and shall pay to the secretary of state
14 fifty dollars (\$50.00) per day for each regular working day
15 after the time required by the Campaign Reporting Act for the
16 filing of statements of no activity or reports of expenditures
17 and contributions until the complete [~~or true~~] statement or
18 report is filed, up to a maximum [~~of five thousand dollars~~
19 ~~(\$5,000)~~] fine as provided in Subsection H of this section.

20 B. If any reporting individual fails to file or
21 files a [~~false, intentionally incomplete or~~] late report of
22 expenditures and contributions due on the Thursday prior to the
23 election, the reporting individual or political committee shall
24 be liable and pay to the secretary of state five hundred
25 dollars (\$500) for the first working day and fifty dollars

.218442.9SA

underscored material = new
[bracketed material] = delete

1 (\$50.00) for each subsequent working day after the time
2 required for the filing of the report until the [~~true and~~
3 complete report is filed, up to a maximum [~~of five thousand~~
4 ~~dollars (\$5,000)~~] fine as provided in Subsection H of this
5 section.

6 C. If a reporting individual fails to file or files
7 a late supplemental report of expenditures and contributions as
8 required in Paragraph (5) of Subsection B of Section 1-19-29
9 NMSA 1978, the reporting individual or political committee
10 shall be liable for and pay to the secretary of state a penalty
11 equal to the amount of each contribution received or pledged
12 after the Tuesday before the election that was not timely
13 filed.

14 D. If the secretary of state determines that a
15 reporting individual or political committee has failed to file
16 or has filed a report past the deadline, the secretary of state
17 shall by written notice set forth the violation and the fine
18 that may be imposed and inform the reporting individual that
19 the individual has ten working days from the date of the letter
20 to come into voluntary compliance and to provide a written
21 explanation, under penalty of perjury, stating any reason why
22 the violation occurred. If a timely explanation is filed and
23 the secretary of state determines that good cause exists to
24 wave or reduce the imposition of the fine, the secretary of
25 state may by a written notice of final action partially or

.218442.9SA

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

1 fully waive the imposition of a fine for any late report or
2 statement of no activity. A written notice of final action
3 shall be sent by certified mail. The secretary of state may
4 file a petition with the court to remit outstanding fines for
5 good cause or refer unpaid fines for enforcement under
6 Subsection A of Section 1-19-34.6 NMSA 1978.

7 ~~[D.]~~ E. All sums collected for the penalty shall be
8 deposited in the state general fund. A report or statement of
9 no activity shall be deemed timely filed only if it is received
10 by the secretary of state by the date and time prescribed by
11 law.

12 ~~[E.]~~ F. Any candidate who fails or refuses to file
13 a report of expenditures and contributions or statement of no
14 activity or to pay a penalty imposed by the secretary of state
15 as required by the Campaign Reporting Act shall not, in
16 addition to any other penalties provided by law:

17 (1) have the candidate's name printed upon the
18 ballot if the violation occurs before and through the final
19 date for the withdrawal of candidates; or

20 (2) be issued a certificate of nomination or
21 election, if the violation occurs after the final date for
22 withdrawal of candidates or after the election, until the
23 candidate satisfies all reporting requirements of the Campaign
24 Reporting Act and pays all penalties owed.

25 ~~[F.]~~ G. Any candidate who loses an election and who
.218442.9SA

underscored material = new
[bracketed material] = delete

1 failed or refused to file a report of expenditures and
2 contributions or a statement of no activity or to pay a penalty
3 imposed by the secretary of state as required by the Campaign
4 Reporting Act shall not be, in addition to any other penalties
5 provided by law, permitted to file a declaration of candidacy
6 or nominating petition for any future election until the
7 candidate satisfies all reporting requirements of that act and
8 pays all penalties owed.

9 H. The maximum cumulative penalties for each report
10 for which fines are assessed in accordance with Subsections A
11 and B of this section are as follows:

12 (1) five thousand dollars (\$5,000) for
13 statewide candidate committees and political committees;

14 (2) two thousand five hundred dollars (\$2,500)
15 for legislative, district judge, district attorney and public
16 education commission candidate committees;

17 (3) one thousand dollars (\$1,000) for county
18 candidate committees running in a county designated as class A;
19 and

20 (4) five hundred dollars (\$500) for all other
21 non-class A county candidate committees."

22 SECTION 7. Section 1-19-36 NMSA 1978 (being Laws 1979,
23 Chapter 360, Section 12, as amended) is amended to read:

24 "1-19-36. CRIMINAL PENALTIES.--

25 A. Any person who knowingly and willfully violates

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 any provision of the Campaign Reporting Act is guilty of a
2 misdemeanor and shall be punished by a fine of not more than
3 one thousand dollars (\$1,000) or by imprisonment for not more
4 than one year or both.

5 B. The Campaign Reporting Act may be enforced by
6 the attorney general or the district attorney in the county
7 where the candidate resides, where a political committee has
8 its principal place of business or where the violation
9 occurred."

10 SECTION 8. Section 1-19A-15.1 NMSA 1978 (being Laws 2019,
11 Chapter 86, Section 20) is amended to read:

12 "1-19A-15.1. STATE ETHICS COMMISSION--JURISDICTION.--

13 A. On and after January 1, 2020:

14 (1) the state ethics commission shall have
15 jurisdiction to investigate and adjudicate a complaint alleging
16 a civil violation of a provision of the Voter Action Act in
17 accordance with the provisions of ~~[that act]~~ the State Ethics
18 Commission Act; and

19 (2) the ~~[state ethics commission shall share~~
20 ~~jurisdiction to investigate and adjudicate complaints, or any~~
21 ~~aspect of a complaint, with the secretary of state as~~
22 ~~formalized through an agreement. The]~~ secretary of state shall
23 forward complaints it receives alleging violations of the Voter
24 Action Act to the state ethics commission in accordance with
25 ~~[the]~~ a formalized agreement.

.218442.9SA

underscored material = new
[bracketed material] = delete

1 B. The state ethics commission and the secretary of
2 state shall make recommendations to the [~~first session of the~~
3 ~~fifty-fifth~~] legislature on any changes to the Voter Action Act
4 necessary for the efficient administration and enforcement of
5 the provisions of that act."

6 SECTION 9. Section 1-19A-17 NMSA 1978 (being Laws 2003,
7 Chapter 14, Section 17, as amended) is amended to read:

8 "1-19A-17. PENALTIES.--

9 A. In addition to other penalties that may be
10 applicable, a person who violates a provision of the Voter
11 Action Act is subject to a civil penalty of up to ten thousand
12 dollars (\$10,000) per violation. In addition to a fine, a
13 certified candidate found in violation of that act may be
14 required to return to the fund all amounts distributed to the
15 candidate from the fund. If the [~~secretary~~] state ethics
16 commission makes a determination that a violation of that act
17 has occurred, the [~~secretary~~] state ethics commission shall
18 impose a fine and, if the violation is willful or knowing,
19 transmit the finding to the attorney general for criminal
20 prosecution pursuant to Subsection B of this section. In
21 determining whether a certified candidate is in violation of
22 the expenditure limits of that act, the [~~secretary~~] state
23 ethics commission may consider as a mitigating factor any
24 circumstances out of the candidate's control.

25 B. A person who willfully or knowingly violates the

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 provisions of the Voter Action Act or knowingly makes a false
2 statement in a report required by that act is guilty of a
3 fourth degree felony and, if the person is a certified
4 candidate, shall return to the fund all money distributed to
5 that candidate."

6 SECTION 10. Section 2-11-8.2 NMSA 1978 (being Laws 1977,
7 Chapter 261, Section 4, as amended) is amended to read:

8 "2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--
9 [~~BINDING ARBITRATION~~] CIVIL PENALTIES.--

10 A. The secretary of state shall advise and seek to
11 educate all persons required to perform duties pursuant to the
12 Lobbyist Regulation Act of those duties. This includes
13 advising all registered lobbyists at least annually of the
14 Lobbyist Regulation Act's deadlines for submitting required
15 reports. The [~~secretary of state, in consultation with the~~
16 ~~attorney general~~] state ethics commission, in consultation with
17 the secretary of state, shall issue advisory opinions, when
18 requested to do so in writing, on matters concerning the
19 Lobbyist Regulation Act. [~~All prescribed forms prepared shall~~
20 ~~be clear and easy to complete.~~

21 B. ~~The secretary of state may conduct thorough~~
22 ~~examinations of reports and initiate investigations to~~
23 ~~determine whether the Lobbyist Regulation Act has been~~
24 ~~violated. Additionally, any person who believes that a~~
25 ~~provision of that act has been violated may file a written~~

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 ~~complaint with the secretary of state. The secretary of state~~
2 ~~shall adopt procedures for issuing advisory opinions,~~
3 ~~processing complaints and notifications of violations.]~~

4 B. The secretary of state may conduct examinations
5 of reports and the state ethics commission may initiate
6 investigations to determine whether the Lobbyist Regulation Act
7 has been violated. Any person who believes that a provision of
8 the Lobbyist Regulation Act has been violated may file a
9 written complaint with the state ethics commission pursuant to
10 the terms of the State Ethics Commission Act. If the
11 commission has jurisdiction for the complaint, the state ethics
12 commission shall refer the complaint to the secretary of state.
13 Upon referral, the secretary of state shall attempt to achieve
14 voluntary compliance with the Lobbyist Regulation Act. Within
15 twenty days after receiving the complaint from the state ethics
16 commission, the secretary of state shall return the complaint
17 to the state ethics commission and certify to the state ethics
18 commission whether voluntary compliance was achieved. If the
19 secretary of state certifies voluntary compliance, the state
20 ethics commission shall dismiss the complaint or that part of
21 the complaint alleging a violation of the Lobbyist Regulation
22 Act. If the secretary of state does not certify voluntary
23 compliance, the state ethics commission shall proceed with the
24 complaint pursuant to the terms of the State Ethics Commission
25 Act.

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 C. The secretary of state and the state ethics
2 commission shall at all times seek to ensure voluntary
3 compliance with the provisions of the Lobbyist Regulation Act.
4 ~~[If the secretary of state determines that a provision of that~~
5 ~~act for which a penalty may be imposed has been violated, the~~
6 ~~secretary of state shall by written notice set forth the~~
7 ~~violation and the fine imposed and inform the person that he~~
8 ~~has ten working days to provide a written explanation, under~~
9 ~~penalty of perjury, stating any reason the violation occurred.~~
10 ~~If a timely explanation is filed and the secretary of state~~
11 ~~determines that good cause exists, the secretary of state may~~
12 ~~by a written notice of final action partially or fully waive~~
13 ~~any fine imposed. A written notice of final action shall be~~
14 ~~sent by certified mail.~~

15 D. ~~If the person charged disputes the secretary of~~
16 ~~state's determination, including an advisory opinion, the~~
17 ~~person charged may request binding arbitration within ten~~
18 ~~working days of the date of the final action. Any penalty~~
19 ~~imposed shall be due and payable within ten working days of the~~
20 ~~notice of final action. No additional penalty shall accrue~~
21 ~~pending issuance of the arbitration decision. Fines paid~~
22 ~~pursuant to a notice of final action that are subsequently~~
23 ~~reduced or dismissed shall be reimbursed with interest within~~
24 ~~ten working days after the filing of the arbitration decision~~
25 ~~with the secretary of state. Interest on the reduced or~~

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 ~~dismissed portion of the fine shall be the same as the rate of~~
2 ~~interest earned by the secretary of state's escrow account to~~
3 ~~be established by the department of finance and administration.~~

4 ~~E. An arbitration hearing shall be conducted by a~~
5 ~~single arbitrator selected within ten days by the person~~
6 ~~against whom the penalty has been imposed from a list of five~~
7 ~~arbitrators provided by the secretary of state. Neither the~~
8 ~~secretary of state nor a person subject to the Lobbyist~~
9 ~~Regulation Act, Campaign Reporting Act or Financial Disclosure~~
10 ~~Act may serve as an arbitrator. Arbitrators shall be~~
11 ~~considered to be independent contractors, not public officers~~
12 ~~or employees, and shall not be paid per diem and mileage.~~

13 ~~F. The arbitrator may impose any penalty and take~~
14 ~~any action the secretary of state is authorized to take. The~~
15 ~~arbitrator shall state the reasons for his decision in a~~
16 ~~written document that shall be a public record. The decision~~
17 ~~shall be final and binding. The decision shall be issued and~~
18 ~~filed with the secretary of state within thirty days of the~~
19 ~~conclusion of the hearing. Unless otherwise provided for in~~
20 ~~this section, or by rule or regulation adopted by the secretary~~
21 ~~of state, the procedures for the arbitration shall be governed~~
22 ~~by the Uniform Arbitration Act. No arbitrator shall be subject~~
23 ~~to liability for actions taken pursuant to this section.]~~

24 Additionally, the state ethics commission shall give a person
25 who violates that act unintentionally or for good cause ten

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 days' notice to come into compliance before the commission
2 takes any action on a complaint filed with or referred to the
3 commission against that person.

4 ~~[G.]~~ D. Any person who fails to file or files a
5 report after the deadline imposed by the Lobbyist Regulation
6 Act [or any person who files a false or incomplete report]
7 shall be liable for and shall pay to the secretary of state
8 fifty dollars (\$50.00) per day for each regular working day
9 after the time required for the filing of the report until the
10 complete report is filed, up to a maximum of five thousand
11 dollars (\$5,000).

12 E. If the secretary of state determines that a
13 reporting entity subject to the reporting provisions of the
14 Lobbyist Regulation Act has failed to file or has filed a
15 report after the deadline, the secretary of state shall by
16 written notice set forth the violation and the fine that may be
17 imposed and inform the reporting individual that the individual
18 has ten working days from the date of the letter to come into
19 voluntary compliance and to provide a written explanation,
20 under penalty of perjury, stating any reason why the violation
21 occurred. If a timely explanation is filed and the secretary
22 of state determines that good cause exists to waive the
23 imposition of a fine, the secretary of state may by a written
24 notice of final action partially or fully waive the imposition
25 of a fine for any late report or statement of no activity. A

.218442.9SA

underscored material = new
[bracketed material] = delete

1 written notice of final action shall be sent by certified mail.
2 The secretary of state may file an appropriate court action to
3 remit outstanding fines for good cause or refer unpaid fines
4 for enforcement pursuant to Subsection F of this section.

5 [H.] F. The secretary of state may refer a matter
6 to the state ethics commission, the attorney general or a
7 district attorney for a civil injunctive or other appropriate
8 order or enforcement."

9 SECTION 11. Section 2-11-8.3 NMSA 1978 (being Laws 2019,
10 Chapter 86, Section 21) is amended to read:

11 "2-11-8.3. STATE ETHICS COMMISSION--JURISDICTION.--

12 A. On and after January 1, 2020:

13 (1) the state ethics commission shall have
14 jurisdiction to investigate and adjudicate a complaint alleging
15 a civil violation of a provision of the Lobbyist Regulation Act
16 in accordance with the provisions of that act; and

17 (2) the ~~[state ethics commission shall share~~
18 ~~jurisdiction to investigate and adjudicate complaints, or any~~
19 ~~aspect of a complaint, with the secretary of state as~~
20 ~~formalized through an agreement. The]~~ secretary of state shall
21 forward complaints it receives alleging violations of the
22 Lobbyist Regulation Act to the state ethics commission in
23 accordance with the Lobbyist Regulation Act and a formalized
24 agreement.

25 B. The state ethics commission and the secretary of

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 state shall make recommendations to the [~~first session of the~~
2 ~~fifty-fifth~~] legislature on any changes to the Lobbyist
3 Regulation Act necessary for the efficient administration and
4 enforcement of the provisions of that act."

5 SECTION 12. Section 10-16A-3 NMSA 1978 (being Laws 1993,
6 Chapter 46, Section 41, as amended) is amended to read:

7 "10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES
8 AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON
9 BALLOT OR APPOINTMENT.--

10 A. A person holding a legislative or statewide
11 office shall file with the secretary of state a financial
12 disclosure statement during the month of January every year
13 that the person holds public office.

14 B. A candidate for legislative or statewide office
15 who has not already filed a financial disclosure statement with
16 the secretary of state in the same calendar year shall file
17 with the proper filing officer, as defined in the Election
18 Code, a financial disclosure statement at the time of filing a
19 declaration of candidacy. If the proper filing officer is not
20 the secretary of state, the proper filing officer shall forward
21 a copy of the financial disclosure statement to the secretary
22 of state within three days.

23 C. A state agency head, an official whose
24 appointment to a board or commission is subject to confirmation
25 by the senate, [~~or~~] a member of the insurance nominating

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 committee or a member of the state ethics commission shall file
2 with the secretary of state a financial disclosure statement
3 within thirty days of appointment and during the month of
4 January every year thereafter that the person holds public
5 office.

6 D. The financial disclosure statement shall include
7 for any person identified in Subsection A, B or C of this
8 section and the person's spouse the following information for
9 the prior calendar year:

10 (1) the full name, mailing address and
11 residence address of each person covered in the disclosure
12 statement, except the address of the spouse need not be
13 disclosed; the name and address of the person's and spouse's
14 employer and the title or position held; and a brief
15 description of the nature of the business or occupation;

16 (2) all sources of gross income of more than
17 five thousand dollars (\$5,000) to each person covered in the
18 disclosure statement, identified by general category
19 descriptions that disclose the nature of the income source, in
20 the following broad categories: law practice or consulting
21 operation or similar business, finance and banking, farming and
22 ranching, medicine and health care, insurance (as a business
23 and not as payment on an insurance claim), oil and gas,
24 transportation, utilities, general stock market holdings,
25 bonds, government, education, manufacturing, real estate,

.218442.9SA

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

1 consumer goods sales with a general description of the consumer
2 goods and the category "other", with direction that the income
3 source be similarly described. In describing a law practice,
4 consulting operation or similar business of the person or
5 spouse, the major areas of specialization or income sources
6 shall be described, and if the spouse or a person in the
7 reporting person's or spouse's law firm, consulting operation
8 or similar business is or was during the reporting calendar
9 year or the prior calendar year a registered lobbyist under the
10 Lobbyist Regulation Act, the names and addresses of all clients
11 represented for lobbying purposes during those two years shall
12 be disclosed;

13 (3) a general description of the type of real
14 estate owned in New Mexico, other than a personal residence,
15 and the county where it is located;

16 (4) all other New Mexico business interests
17 not otherwise listed of ten thousand dollars (\$10,000) or more
18 in a New Mexico business or entity, including any position held
19 and a general statement of purpose of the business or entity;

20 (5) all memberships held by the reporting
21 individual and the individual's spouse on boards of for-profit
22 businesses in New Mexico;

23 (6) all New Mexico professional licenses held;

24 (7) each state agency that was sold goods or
25 services in excess of five thousand dollars (\$5,000) during the

.218442.9SA

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

1 prior calendar year by a person covered in the disclosure
2 statement; and

3 (8) each state agency, other than a court,
4 before which a person covered in the disclosure statement
5 represented or assisted clients in the course of the person's
6 employment during the prior calendar year.

7 E. A complete financial disclosure statement shall
8 be filed every year. The secretary of state shall deliver to
9 each elected official required to file a financial disclosure
10 statement a copy of any statement the person filed the previous
11 year.

12 F. The financial disclosure statements filed
13 pursuant to this section are public records open to public
14 inspection during regular office hours and shall be retained by
15 the state for five years from the date of filing.

16 G. A person who files a financial disclosure
17 statement may file an amended statement at any time to reflect
18 significant changed circumstances that occurred since the last
19 statement was filed.

20 H. A person who files to be a candidate for a
21 legislative or statewide office who fails or refuses to file a
22 financial disclosure statement required by this section before
23 the final date for qualification of the person as a candidate
24 as provided for in the Election Code shall not be qualified by
25 the proper filing officer as a candidate.

.218442.9SA

underscored material = new
[bracketed material] = delete

1 I. For a state agency head, an official whose
2 appointment to a board or commission is subject to confirmation
3 by the senate, ~~[or]~~ a member of the insurance nominating
4 committee or a member of the state ethics commission, the
5 filing of the financial disclosure statement required by this
6 section is a condition of entering upon and continuing in state
7 employment or holding an appointed position."

8 SECTION 13. Section 10-16A-6 NMSA 1978 (being Laws 1993,
9 Chapter 46, Section 44, as amended) is amended to read:

10 "10-16A-6. INVESTIGATIONS--~~[BINDING ARBITRATION]~~ FINES--
11 ENFORCEMENT.--

12 A. The state ethics commission ~~[and the secretary~~
13 ~~of state]~~ may conduct thorough examinations of statements and
14 initiate investigations to determine whether the Financial
15 Disclosure Act has been violated. Any person who believes that
16 act has been violated may file a written complaint with the
17 state ethics commission. The commission shall adopt procedures
18 for processing complaints and notifications of violations.

19 B. If the state ethics commission determines that a
20 violation has occurred for which a penalty should be imposed,
21 the commission shall so notify the person charged and impose
22 the penalty. ~~[If the person charged disputes the commission's~~
23 ~~determination, the person charged may request binding~~
24 ~~arbitration.~~

25 ~~C. The arbitration decision shall be decided by a~~

.218442.9SA

underscored material = new
[bracketed material] = delete

1 ~~single arbitrator selected within ten days by the person~~
2 ~~against whom the penalty has been imposed from a list of five~~
3 ~~arbitrators provided by the state ethics commission. No~~
4 ~~arbitrator may be a person subject to the Financial Disclosure~~
5 ~~Act, Campaign Reporting Act or Lobbyist Regulation Act.~~
6 ~~Arbitrators shall be considered to be independent contractors,~~
7 ~~not public officers or employees, and shall not be paid per~~
8 ~~diem and mileage.~~

9 ~~D. The arbitrator may take any action the state~~
10 ~~ethics commission is authorized to take. The arbitrator shall~~
11 ~~state the reasons for the decision in a written document that~~
12 ~~shall be a public record. The decision shall be final and~~
13 ~~binding. The decision shall be issued within thirty days of~~
14 ~~the conclusion of the hearing. Unless otherwise provided for~~
15 ~~in this section, or by rule or regulation adopted by the state~~
16 ~~ethics commission, the procedures for the arbitration shall be~~
17 ~~governed by the Uniform Arbitration Act. No arbitrator shall~~
18 ~~be subject to liability for actions taken pursuant to this~~
19 ~~section.~~

20 ~~E.]~~ C. Any person who files a statement or report
21 after the deadline imposed by the Financial Disclosure Act [~~or~~
22 ~~any person who files a false or incomplete statement or report]~~
23 is liable for and shall pay to the secretary of state, at or
24 from the time initially required for the filing, fifty dollars
25 (\$50.00) per day for each regular working day after the time

.218442.9SA

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

1 required for the filing of the statement or report until the
2 complete report is filed, up to a maximum of five thousand
3 dollars (\$5,000).

4 ~~[F-]~~ D. The secretary of state may refer a matter
5 to the state ethics commission, attorney general or a district
6 attorney for a civil injunctive or other appropriate order or
7 enforcement."

8 **SECTION 14.** Section 10-16G-2 NMSA 1978 (being Laws 2019,
9 Chapter 86, Section 2) is amended to read:

10 "10-16G-2. DEFINITIONS.--As used in the State Ethics
11 Commission Act:

- 12 A. "commission" means the state ethics commission;
13 B. "commissioner" means a member of the commission;
14 C. "complainant" means a person who files a
15 verified complaint with the commission;
16 D. "complaint" means a complaint that has been
17 signed by the complainant and the complainant attests under
18 oath and subject to penalty of perjury ~~[before a notary public]~~
19 that the information in the complaint, and any attachments
20 provided with the complaint, are true and accurate;
21 E. "director" means the executive director of the
22 commission;
23 F. "government contractor" means a person who has a
24 contract with a public agency or who has submitted a
25 competitive sealed proposal or competitive sealed bid for a

.218442.9SA

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

1 contract with a public agency;

2 G. "legislative body" means the house of
3 representatives or the senate;

4 H. "lobbyist" means a person who is required to
5 register as a lobbyist pursuant to the provisions of the
6 Lobbyist Regulation Act;

7 I. "political party" means a political party that
8 has been qualified in accordance with the provisions of the
9 Election Code;

10 J. "public agency" means any department,
11 commission, council, board, committee, agency or institution of
12 the executive or legislative branch of government of the state
13 or any instrumentality of the state, including the New Mexico
14 mortgage finance authority, the New Mexico finance authority,
15 the New Mexico exposition center authority, the New Mexico
16 hospital equipment loan council and the New Mexico renewable
17 energy transmission authority;

18 K. "public employee" means an employee of a public
19 agency;

20 L. "public official" means a person elected to an
21 office of the executive or legislative branch of the state or a
22 person appointed to a public agency; and

23 M. "respondent" means a person against whom a
24 complaint has been filed with or by the commission."

25 SECTION 15. Section 10-16G-4 NMSA 1978 (being Laws 2019,

.218442.9SA

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

1 Chapter 86, Section 4) is amended to read:

2 "10-16G-4. COMMISSIONERS--QUALIFICATIONS--LIMITATIONS.--

3 A. To qualify for appointment to the commission, a
4 person shall:

5 (1) be a qualified elector of New Mexico;

6 (2) not have changed party registration in the
7 five years next preceding the member's appointment in such a
8 manner that the member's prior party registration would make
9 the member ineligible to serve on the commission;

10 (3) not continue to serve as a commissioner if
11 the member changes party registration after the date of
12 appointment in such a manner as to make the member ineligible
13 to serve on the commission; and

14 (4) not be, or within the two years prior to
15 appointment shall not have been, in New Mexico, any of the
16 following:

17 (a) a public official;

18 (b) a public employee;

19 (c) a candidate;

20 (d) a lobbyist;

21 (e) a government contractor; or

22 (f) an office holder in a political
23 party at the state or federal level.

24 B. Before entering upon the duties of the office of
25 commissioner, each commissioner shall review the State Ethics

.218442.9SA

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

1 Commission Act and other laws and rules pertaining to the
2 commission's responsibilities and to ethics and governmental
3 conduct in New Mexico. Each commissioner shall take the oath
4 of office as provided in Article 20, Section 1 of the
5 constitution of New Mexico and, pursuant to the Financial
6 Disclosure Act, file with the secretary of state a financial
7 disclosure statement within thirty days of appointment and
8 during the month of January every year thereafter that the
9 commissioner serves on the commission.

10 C. For a period of one calendar year following a
11 commissioner's tenure or following the resignation or removal
12 of a commissioner, the commissioner shall not:

13 (1) represent a respondent, unless appearing
14 on the commissioner's own behalf; or

15 (2) accept employment or otherwise provide
16 services to a respondent unless the commissioner accepted
17 employment or provided services prior to the filing of a
18 complaint against the respondent.

19 D. During a commissioner's tenure, a commissioner
20 shall not hold another public office or be:

21 (1) a public employee;

22 (2) a candidate;

23 (3) a lobbyist;

24 (4) a government contractor; or

25 (5) an office holder in a political party at

underscored material = new
[bracketed material] = delete

1 the state or federal level.

2 E. A commissioner who changes political party
3 affiliation in violation of the provisions of Subsection A of
4 this section or who chooses to seek or hold an office in
5 violation of Subsection D of this section shall resign from the
6 commission or be deemed to have resigned."

7 SECTION 16. Section 10-16G-9 NMSA 1978 (being Laws 2019,
8 Chapter 86, Section 9) is amended to read:

9 "10-16G-9. COMMISSION JURISDICTION--COMPLIANCE
10 PROVISIONS.--

11 A. The commission has jurisdiction to enforce the
12 applicable civil compliance provisions for public officials,
13 public employees, candidates, persons subject to the Campaign
14 Reporting Act, government contractors, lobbyists and lobbyists'
15 employers of:

- 16 (1) the Campaign Reporting Act;
- 17 (2) the Financial Disclosure Act;
- 18 (3) the Gift Act;
- 19 (4) the Lobbyist Regulation Act;
- 20 (5) the Voter Action Act;
- 21 (6) the Governmental Conduct Act;
- 22 (7) the Procurement Code;
- 23 (8) the State Ethics Commission Act; and
- 24 (9) Article 9, Section 14 of the constitution
25 of New Mexico.

.218442.9SA

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

1 B. All complaints filed with a public agency
2 regarding the statutes listed in Subsection A of this section
3 shall be forwarded to the commission.

4 C. The commission may choose to act on some or all
5 aspects of a complaint and forward other aspects of a complaint
6 to another state or federal agency with jurisdiction over the
7 matter in accordance with Subsection E of this section.

8 D. If the commission decides not to act on a
9 complaint, whether the complaint was filed with the commission
10 or forwarded from another public agency, or decides only to act
11 on part of a complaint, the commission shall promptly forward
12 the complaint, or any part of a complaint on which it does not
13 wish to act, to the public agency that has appropriate
14 jurisdiction within ten days of the decision. The complainant
15 and respondent shall be notified in writing when the
16 complainant's request has been forwarded to another agency
17 unless otherwise provided pursuant to Subsection H of Section
18 ~~[10 of the State Ethics Commission Act]~~ 10-16G-10 NMSA 1978.

19 E. The commission may share jurisdiction with other
20 public agencies having authority to act on a complaint or any
21 aspect of a complaint. Such shared jurisdiction shall be
22 formalized through an agreement entered into by all
23 participating agencies involved with the complaint and the
24 director. The commission may also investigate a complaint
25 referred to the commission by the legislature, or a legislative

.218442.9SA

underscoring material = new
[bracketed material] = delete

1 committee, in accordance with an agreement entered into
2 pursuant to policies of the New Mexico legislative council or
3 rules of the house of representatives or senate.

4 F. The commission may file a court action to
5 enforce the civil compliance provisions of an act listed in
6 Subsection A of this section. The court action shall be filed
7 in the district court in the county where the [~~respondent~~]
8 defendant resides."

9 SECTION 17. Section 10-16G-10 NMSA 1978 (being Laws 2019,
10 Chapter 86, Section 10) is amended to read:

11 "10-16G-10. COMPLAINTS--INVESTIGATIONS--SUBPOENAS.--

12 A. A complaint of an alleged ethics violation
13 committed by a public official, public employee, candidate,
14 person subject to the Campaign Reporting Act, government
15 contractor, lobbyist, lobbyist's employer or a restricted donor
16 subject to the Gift Act may be filed with the commission by a
17 person who has actual knowledge of the alleged ethics
18 violation.

19 B. The complainant shall set forth in detail the
20 specific charges against the respondent and the factual
21 allegations that support the charges and shall sign the
22 complaint under penalty of false statement. The complainant
23 shall submit any evidence the complainant has that supports the
24 complaint. Evidence may include documents, records and names
25 of witnesses. The commission shall prescribe the forms on

.218442.9SA

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

1 which complaints are to be filed. The complaint form shall be
2 signed [~~and sworn~~] under oath by the complainant [~~and~~
3 ~~notarized~~].

4 C. Except as provided in Subsection H of this
5 section, the respondent shall be notified within seven days of
6 the filing of the complaint and offered an opportunity to file
7 a response on the merits of the complaint.

8 D. The director shall determine if the complaint is
9 subject to referral to another state agency pursuant to an
10 agreement or outside the jurisdiction of the commission, and if
11 so, promptly refer the complaint to the appropriate agency. If
12 the director determines that the complaint is within the
13 commission's jurisdiction, the director shall have the general
14 counsel initiate an investigation.

15 E. The general counsel shall conduct an
16 investigation to determine whether the complaint is frivolous
17 or unsubstantiated. If the general counsel determines that the
18 complaint is frivolous or unsubstantiated, the complaint shall
19 be dismissed, and the complainant and respondent shall be
20 notified in writing of the decision and reasons for the
21 dismissal. The commission shall not make public a complaint
22 that has been dismissed pursuant to this subsection or the
23 reasons for the dismissal.

24 F. If the general counsel and the respondent reach
25 a settlement on the matters of the complaint, the settlement

.218442.9SA

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

1 shall be submitted to the commission for its approval, and if
2 the matter has been resolved to the satisfaction of the
3 commission, the complaint and terms of the settlement shall be
4 subject to public disclosure.

5 G. If the general counsel determines that there is
6 probable cause, the director shall promptly notify the
7 respondent of the finding of probable cause and of the specific
8 allegations in the complaint that are being investigated and
9 that a public hearing will be set. If the finding of probable
10 cause involves a discriminatory practice or actions by the
11 respondent against the complainant, no settlement agreement
12 shall be reached without prior consultation with the
13 complainant. In any case, the notification, complaint,
14 specific allegations being investigated and any response to the
15 complaint shall be made public thirty days following notice to
16 the respondent.

17 H. Notwithstanding the provisions of Subsections C
18 and G of this section, the director may delay notifying a
19 respondent and complainant and releasing to the public the
20 complaint and related information required by Subsection G of
21 this section if it is deemed necessary to protect the integrity
22 of a criminal investigation. A decision whether to delay
23 notifying a respondent shall be taken by a majority vote of the
24 commission and shall be documented in writing with reasonable
25 specificity.

.218442.9SA

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

1 I. As part of an investigation, the general counsel
2 may administer oaths, interview witnesses and examine books,
3 records, documents and other evidence reasonably related to the
4 complaint. All testimony in an investigation shall be under
5 oath, and the respondent may be represented by legal counsel.
6 If the general counsel determines that a subpoena is necessary
7 to obtain the testimony of a person or the production of books,
8 records, documents or other evidence, the director shall
9 request that the commission petition a district court to issue
10 a subpoena.

11 J. The commission may petition the court for a
12 subpoena for the attendance and examination of witnesses or for
13 the production of books, records, documents or other evidence
14 reasonably related to an investigation. If a person neglects
15 or refuses to comply with a subpoena, the commission may apply
16 to a district court for an order enforcing the subpoena and
17 compelling compliance. All proceedings in the district court
18 prior to the complaint being made public pursuant to Subsection
19 G of this section, or upon entry of a settlement agreement,
20 shall be sealed. A case is automatically unsealed upon notice
21 by the commission to the court that the commission has made the
22 complaint public. No later than July 1 of each even-numbered
23 year, the chief justice of the supreme court shall appoint an
24 active or pro tempore district judge to consider the issuance
25 and enforcement of subpoenas provided for in this section. The

.218442.9SA

underscored material = new
[bracketed material] = delete

1 appointment shall end on June 30 of the next even-numbered year
2 after appointment.

3 K. A public official or state public employee who
4 is a respondent who is subject to a complaint alleging a
5 violation made in the performance of the respondent's duties
6 shall be entitled to representation by the risk management
7 division of the general services department."

8 SECTION 18. A new section of the Campaign Reporting Act
9 is enacted to read:

10 "[NEW MATERIAL] POLITICAL COMMITTEES--ACKNOWLEDGMENT OF
11 RESPONSIBILITIES--PENALTY.--

12 A. Beginning on July 1, 2021, for all new political
13 committees registering with the secretary of state, the
14 treasurer for the political committee shall submit an
15 electronically signed statement acknowledging the political
16 committee's responsibilities on a form prescribed by the
17 secretary of state within ten days of registering the political
18 committee. The signed acknowledgment statement serves as
19 notification of the responsibilities of the political committee
20 to comply with the financial reporting prescribed in the
21 Campaign Reporting Act and the potential personal liability of
22 the treasurer for penalties assessed against the political
23 committee.

24 B. The secretary of state shall notify the
25 political committee of any individual who has failed to submit

.218442.9SA

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

1 the acknowledgment statement. Failure to return the
2 acknowledgment statement is a violation of this section for
3 which a fine of one hundred dollars (\$100) may be assessed
4 against the political committee. This section also applies to
5 individuals named in an updated or amended registration who
6 have not previously submitted an acknowledgment statement for
7 the political committee.

8 C. For all political committees already registered
9 with the secretary of state prior to July 1, 2021, the
10 secretary of state shall notify the principal officer and
11 treasurer of record requiring the treasurer to submit an
12 acknowledgment form required in Subsection A of this section.
13 If the political committee does not respond to the request made
14 by the secretary of state or disputes current responsibility
15 for the political committee, the political committee shall not
16 raise or spend any funds until the registration is amended and
17 the acknowledgment form has been signed.

18 D. If there are already fines accrued against a
19 political committee previously registered with the secretary of
20 state, the treasurer of record shall sign the acknowledgment
21 statement accepting personal liability from that date forward.
22 Outstanding fines are still due unless the secretary of state
23 is compelled to file a petition in court to have the fines
24 dissolved."

25 SECTION 19. A new section of the Campaign Reporting Act

.218442.9SA

underscored material = new
[bracketed material] = delete

1 is enacted to read:

2 "[NEW MATERIAL] POLITICAL COMMITTEES--NOTICE OF
3 RESIGNATION OR REMOVAL OF TREASURER.--

4 A. An individual who resigns as the treasurer of a
5 political committee shall submit a written resignation
6 statement to the secretary of state. An individual's
7 resignation is not effective until the secretary of state
8 receives the written resignation statement from the individual
9 and a replacement treasurer is appointed for the political
10 committee. If an individual is involuntarily removed from the
11 position of treasurer, the political committee shall notify the
12 secretary of state by amending the electronic registration
13 maintained by the secretary of state. An individual who
14 resigns as the treasurer of a political committee remains
15 personally liable for any penalties or fines accrued during the
16 time that the individual served in the position.

17 B. The secretary of state shall prescribe the form
18 and process for notifying the secretary of state of a
19 resignation or replacement of a treasurer and shall maintain
20 all records electronically to the extent practicable."

21 SECTION 20. A new section of the Lobbyist Regulation Act
22 is enacted to read:

23 "[NEW MATERIAL] RULEMAKING AUTHORITY.--The secretary of
24 state may promulgate rules to implement the provisions of the
25 Lobbyist Regulation Act. In promulgating the rules, the

.218442.9SA

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

1 secretary of state shall comply with the provisions of the
2 State Rules Act."

3 SECTION 21. A new section of the Financial Disclosure Act
4 is enacted to read:

5 "[NEW MATERIAL] RULEMAKING AUTHORITY.--The secretary of
6 state may promulgate rules to implement the provisions of the
7 Financial Disclosure Act. In promulgating the rules, the
8 secretary of state shall comply with the provisions of the
9 State Rules Act."

10 SECTION 22. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2021.