

SENATE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC ACCOUNTABILITY; ENACTING THE PUBLIC
ACCOUNTABILITY ACT; CREATING THE PUBLIC ACCOUNTABILITY BOARD;
PROVIDING FOR AN EXECUTIVE DIRECTOR; PROVIDING FOR ANNUAL
ETHICS TRAINING AND THE PUBLICATION OF ETHICS GUIDES; REQUIRING
THE DEVELOPMENT OF A PROPOSED ETHICS CODE; PROVIDING FOR THE
ISSUANCE OF BOARD ADVISORY OPINIONS; REQUIRING PUBLICATION OF
CERTAIN BOARD REPORTS; TRANSFERRING CERTAIN ACCOUNTABILITY AND
ENFORCEMENT FUNCTIONS TO THE BOARD; PROVIDING FOR THE FILING,
INVESTIGATION AND ADJUDICATION OF COMPLAINTS RELATED TO PUBLIC
ACCOUNTABILITY AGAINST PUBLIC OFFICERS AND EMPLOYEES,
CANDIDATES, GOVERNMENT CONTRACTORS AND LOBBYISTS; PROVIDING FOR
CONFIDENTIALITY OF CERTAIN RECORDS; PROVIDING FOR PENALTIES
COLLECTED PURSUANT TO THE CAMPAIGN REPORTING ACT TO BE
DEPOSITED IN THE PUBLIC ELECTION FUND; REVISING THE TIME PERIOD
IN WHICH LEGISLATION MAY BE INTRODUCED AND FILED; REVISING

.204365.5

1 EXCLUSIONS FROM THE DEFINITION OF "LOBBYIST" IN THE LOBBYIST
2 REGULATION ACT; PROVIDING FOR A PERMANENT LEGISLATIVE ETHICS
3 COMMITTEE; EXPANDING THE SCOPE OF THE JUDICIAL STANDARDS
4 COMMISSION'S DUTIES; AMENDING, REPEALING AND ENACTING SECTIONS
5 OF THE NMSA 1978.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
9 through 12 of this act may be cited as the "Public
10 Accountability Act".

11 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
12 Public Accountability Act:

13 A. "active judge" means a person who, at the time
14 of appointment to the board, is serving as a judge and who has
15 been retained pursuant to the provisions of Article 6, Section
16 33 of the constitution of New Mexico;

17 B. "adjunct agency" means an agency, board,
18 commission, office or other instrumentality, not assigned to an
19 elected constitutional officer, that is excluded from any
20 direct or administrative attachment to a department of state
21 government and that retains policymaking and administrative
22 autonomy separate from any other agency of state government;

23 C. "board" means the public accountability board;

24 D. "breach" means an action that is a violation of
25 any of the statutes provided in Section 6 of the Public

1 Accountability Act;

2 E. "complainant" means a person who files a
3 complaint with the board;

4 F. "complaint" means a formal written assertion of
5 a breach filed with the board in accordance with the Public
6 Accountability Act;

7 G. "director" means the executive director of the
8 board;

9 H. "government contractor" means a person who has a
10 contract with a public body or who has submitted a bid for a
11 contract with a public body;

12 I. "instrumentality of the state" means the New
13 Mexico exposition center authority, New Mexico finance
14 authority, New Mexico industrial and agricultural finance
15 authority, New Mexico lottery authority, New Mexico mortgage
16 finance authority, New Mexico renewable energy transmission
17 authority, New Mexico state fair and water quality control
18 commission;

19 J. "lobbyist" means "lobbyist", as that term is
20 defined in the Lobbyist Regulation Act;

21 K. "public body" means a department, commission,
22 council, board, committee or agency of the executive branch of
23 government of the state; a state educational institution; a
24 state institution; a political subdivision of the state; or an
25 instrumentality of the state;

.204365.5

1 L. "public employee" means a person employed by a
2 public body;

3 M. "public officer" means a person elected or
4 appointed to an office of the executive branch of government of
5 the state; a person elected or appointed to a position with a
6 public body; a person elected to a public office of a political
7 subdivision of the state; or a member of a governing body of a
8 charter school;

9 N. "qualified political party" means a political
10 party that has been qualified in accordance with the provisions
11 of the Election Code;

12 O. "respondent" means a person whose conduct or
13 alleged breach is the subject of a complaint; and

14 P. "retired judge" means a person who has
15 previously served as a judge; who has been retained pursuant to
16 the provisions of Article 6, Section 33 of the constitution of
17 New Mexico; and who is qualified to serve again as a judge
18 pursuant to the laws of the state.

19 SECTION 3. [NEW MATERIAL] PUBLIC ACCOUNTABILITY BOARD
20 CREATED--MEMBERSHIP--TERMS--REMOVAL.--

21 A. The "public accountability board" is created as
22 an adjunct agency under the direction of twelve board members,
23 appointed as follows:

24 (1) three members appointed by the governor,
25 of which at least one member shall be appointed from each

.204365.5

1 congressional district;

2 (2) three members appointed by the chief
3 justice of the supreme court, of which at least one member
4 shall be appointed from each congressional district;

5 (3) three members appointed by the president
6 of the state bar of New Mexico, of which at least one member
7 shall be appointed from each congressional district; and

8 (4) three members appointed by the secretary
9 of state:

10 (a) one member upon the recommendation
11 of the executive director of the New Mexico municipal league;

12 (b) one member upon the recommendation
13 of the executive director of the New Mexico association of
14 counties; and

15 (c) one member upon the recommendation
16 of the executive director of the New Mexico school boards
17 association.

18 B. No more than five board members shall be
19 registered members of the same qualified political party.

20 C. Each appointing authority shall file letters of
21 appointment with the secretary of state no later than the dates
22 provided in Subsection D of this section.

23 D. Appointments shall be made as follows:

24 (1) by June 1 of each odd-numbered year, one
25 board member shall be appointed by the governor;

.204365.5

1 (2) by June 1 of each odd-numbered year, one
2 board member shall be appointed by the executive director of
3 the New Mexico municipal league, the executive director of the
4 New Mexico association of counties or the executive director of
5 the New Mexico school boards association on a rotating basis;

6 (3) between June 2 and June 15 of each odd-
7 numbered year, one board member shall be appointed by the dean
8 of the university of New Mexico school of law; and

9 (4) between June 16 and the last business day
10 in June of each odd-numbered year, one board member shall be
11 appointed by the chief justice of the supreme court.

12 E. Terms of office are six years in length and
13 begin on July 1 of the year of the board member's appointment
14 and continue through June 30 of the sixth year of a term.
15 Board members shall serve until their successors are appointed
16 and qualified. A person shall not serve as a board member for
17 more than two consecutive terms. A board member who serves a
18 partial term of at least four years shall be deemed to have
19 served a full term of six years. A vacancy on the board shall
20 be filled by appointment by the original appointing authority
21 for the remainder of the unexpired term.

22 F. Board members are entitled to receive per diem
23 and mileage as provided in the Per Diem and Mileage Act.

24 G. The board shall elect a chair and a vice chair
25 at the first regular meeting following July 1 of each odd-

1 numbered year. The chair and vice chair shall not be of the
2 same qualified political party and shall not have been
3 appointed by the same appointing authority. The board may
4 elect other officers as necessary.

5 H. Seven board members constitute a quorum for the
6 transaction of business. The board shall not take action
7 unless at least seven members concur.

8 I. A board member may be removed only for
9 incompetence, neglect of duty or malfeasance in office. A
10 proceeding for the removal of a member may be commenced by the
11 board or by the judicial standards commission. The supreme
12 court has exclusive original jurisdiction in quo warranto over
13 proceedings to remove members. A member shall be given notice
14 of hearing and an opportunity to be heard before the member is
15 removed.

16 SECTION 4. [NEW MATERIAL] BOARD MEMBERS--QUALIFICATIONS--
17 LIMITATIONS.--

18 A. To qualify for appointment to the board, a
19 person shall:

20 (1) be a resident of New Mexico for at least
21 four years;

22 (2) not have changed qualified political party
23 affiliation as shown on the person's voter registration for at
24 least two years prior to appointment;

25 (3) if appointed by the president of the state

1 bar of New Mexico, be an attorney licensed to practice law in
2 this state; and

3 (4) if appointed by the chief justice of the
4 supreme court, be a retired judge.

5 B. Before entering upon the duties of the office of
6 board member, each board member shall take the oath of office
7 as provided in Article 20, Section 1 of the constitution of New
8 Mexico and shall file that oath of office with the secretary of
9 state.

10 C. A board member shall not:

11 (1) seek or hold an office in a qualified
12 political party;

13 (2) seek or hold an elective public office or
14 an appointed public position; or

15 (3) be a public employee, government
16 contractor or lobbyist.

17 D. A board member who seeks or holds an office or
18 position or is employed as prohibited in Subsection C of this
19 section is deemed to have resigned from the board.

20 SECTION 5. [NEW MATERIAL] BOARD--DUTIES AND POWERS.--

21 A. The board shall:

22 (1) meet as necessary, at least once in each
23 calendar quarter to carry out its duties;

24 (2) receive and investigate complaints;

25 (3) designate a complaint review committee of

1 the board;

2 (4) hold hearings when necessary to determine
3 whether there has been a breach as alleged in a complaint;

4 (5) administer the applicable compliance
5 provisions of the acts listed in Section 6 of the Public
6 Accountability Act;

7 (6) promulgate rules necessary to implement
8 and administer the provisions of the Public Accountability Act
9 and the applicable compliance provisions of the acts listed in
10 Section 6 of the Public Accountability Act;

11 (7) compile, index, maintain and provide
12 public and online access to all advisory opinions and reports
13 required to be made public pursuant to the Public
14 Accountability Act;

15 (8) compile, maintain and provide access to
16 all codes of conduct filed with the board in accordance with
17 Section 10-16-11 NMSA 1978;

18 (9) draft a proposed code of public
19 accountability and submit the proposed code to each elected
20 public officer and public body for adoption;

21 (10) offer annual accountability training;

22 (11) appoint an executive director;

23 (12) contract for professional services as
24 necessary to carry out duties;

25 (13) have the authority to accept federal

.204365.5

1 funds and other public or private grants to perform duties
2 consistent with the Public Accountability Act; and

3 (14) prepare an annual report of its
4 activities, including any recommendations regarding state
5 ethics or public accountability laws or the scope of its powers
6 and duties, and the number of complaints received, dismissed,
7 adjudicated and referred to other authorities, publish the
8 report on the board's website and provide copies of the report
9 upon request.

10 B. The board is limited in its authority to those
11 powers granted by the Public Accountability Act or expressly
12 granted in another applicable statute. In carrying out its
13 responsibilities pursuant to the Public Accountability Act, the
14 board may:

15 (1) sue and be sued;

16 (2) issue advisory opinions as provided in
17 Section 9 of the Public Accountability Act;

18 (3) designate a campaign finance committee of
19 the board to resolve matters related to violations of the
20 Campaign Reporting Act; and

21 (4) as necessary, designate such other
22 committees of the board to make recommendations for action to
23 the board.

24 SECTION 6. [NEW MATERIAL] BOARD JURISDICTION--COMPLIANCE
25 PROVISIONS.--The board shall enforce the applicable civil

.204365.5

1 compliance provisions of the:

- 2 A. Campaign Reporting Act;
- 3 B. Financial Disclosure Act;
- 4 C. Gift Act;
- 5 D. Governmental Conduct Act;
- 6 E. Inspection of Public Records Act;
- 7 F. Lobbyist Regulation Act;
- 8 G. Open Meetings Act;
- 9 H. Procurement Code;
- 10 I. Public Accountability Act;
- 11 J. School District Campaign Reporting Act; and
- 12 K. Voter Action Act.

13 SECTION 7. [NEW MATERIAL] EXECUTIVE DIRECTOR--

14 APPOINTMENT--DUTIES--POWERS--LIMITATIONS.--

15 A. The executive director of the board shall be:

16 (1) knowledgeable about state laws related to
17 public accountability;

18 (2) appointed without regard to qualified
19 political party affiliation; and

20 (3) appointed, retained and reappointed solely
21 on the grounds of fitness to perform the duties of the office.

22 B. The director shall hold office for a term
23 commencing on the date of appointment through June 30 of the
24 fourth even-numbered year following the director's appointment.

25 C. Prior to the end of the director's term of

.204365.5

1 office, the director may only be removed by the board for cause
2 and with the concurrence of at least nine board members.

3 D. Once appointed or reappointed, the director
4 shall:

5 (1) take the oath of office required by
6 Article 20, Section 1 of the constitution of New Mexico and
7 file that oath of office with the secretary of state;

8 (2) devote the director's entire professional
9 time and attention to the duties of that office;

10 (3) prepare an annual budget for the board and
11 submit it to the board for approval;

12 (4) make recommendations to the board of
13 proposed rules or legislative changes needed to provide better
14 administration of the Public Accountability Act;

15 (5) operate and maintain a publicly accessible
16 internet website on which shall be published the board's
17 advisory opinions and annual reports and a list of persons who
18 failed or refused to file a report of expenditures and
19 contributions or a statement of no activity or to pay a penalty
20 imposed by the board shall be published; and

21 (6) at every meeting of the board, report any
22 complaints referred to the board by the complaint review
23 committee and the status of all open investigations and
24 investigations closed since the board's last meeting.

25 E. The director may:

.204365.5

1 (1) hire a general counsel for the board and
2 additional personnel necessary to enable the board to carry out
3 its duties;

4 (2) enter into contracts and agreements on
5 behalf of the board; and

6 (3) administer oaths and take depositions
7 subject to the Rules of Civil Procedure for the District
8 Courts.

9 F. The director shall not:

10 (1) seek or hold an office in a qualified
11 political party; or

12 (2) seek or hold an elected public office or
13 an appointed public position.

14 G. A director who seeks or holds an office or
15 position as prohibited in Subsection F of this section is
16 deemed to have resigned as director.

17 SECTION 8. [NEW MATERIAL] BOARD MEMBER RECUSAL--
18 DISQUALIFICATION.--

19 A. A board member shall recuse from and not
20 participate in a board proceeding in which the member has a
21 conflict of interest. The member shall state in writing the
22 reason for the recusal.

23 B. If the propriety of a board member's
24 participation in a particular matter is questioned on the
25 grounds that the member has a conflict of interest and if the

.204365.5

1 member refuses to recuse from participation in the matter, the
2 board may disqualify that member from participation in the
3 relevant board proceeding with concurrence of at least nine
4 members.

5 C. The board's disqualification of a board member
6 shall serve as an automatic referral to the judicial standards
7 commission to initiate proceedings to remove the member.

8 D. A recused or disqualified board member shall not
9 participate in any proceeding related to the matter from which
10 the member is recused or disqualified, and the member shall be
11 excused from that portion of a meeting at which the matter is
12 discussed.

13 E. If four or more board members have recused
14 themselves or are disqualified from participating in a
15 proceeding, the remaining members shall request the appointment
16 of temporary members from the original appointing authorities
17 that appointed the recused or disqualified members. If the
18 original appointing authority was the secretary of state, then
19 the secretary of state shall appoint temporary members
20 recommended by the original recommending authority. Appointing
21 authorities shall appoint temporary members within twenty days
22 of the request for appointment.

23 SECTION 9. [NEW MATERIAL] ADVISORY OPINIONS.--

24 A. The board may issue advisory opinions on matters
25 related to the acts listed in Section 6 of the Public

1 Accountability Act. Advisory opinions shall:

2 (1) be requested in writing;

3 (2) present a question regarding whether the
4 requester's contemplated future conduct would violate any of
5 the acts listed in Section 6 of the Public Accountability Act;

6 (3) be issued within sixty days of receipt of
7 the request unless the board notifies the requester in writing
8 of a delay in issuance and with specificity as to that request,
9 the reason for the delay, and continues to notify the requester
10 in writing every thirty days until the advisory opinion is
11 issued, which in all cases shall be within one hundred eighty
12 days of the request; and

13 (4) be published on the board's website after
14 omitting the requester's name and identifying information.

15 B. A request for an advisory opinion and the
16 research conducted to formulate the advisory opinion are
17 confidential and not subject to the provisions of the
18 Inspection of Public Records Act.

19 C. Unless amended or revoked, an advisory opinion
20 shall be binding on the board in any subsequent board
21 proceedings concerning a person who acted in good faith and in
22 reasonable reliance on the advisory opinion.

23 SECTION 10. [NEW MATERIAL] COMPLAINTS--JURISDICTION--
24 INVESTIGATIONS--SUBPOENAS.--

25 A. A complaint alleging a breach of the acts listed

1 in Section 6 of the Public Accountability Act may be filed with
2 the board by any person other than the director, a board member
3 or a person employed by or in a contractual relationship with
4 the board.

5 B. The complainant shall set forth in detail the
6 specific allegations against the respondent and the facts that
7 support the allegations. The complainant shall submit any
8 available evidence that supports the complaint, including
9 documents, records, names of witnesses and other evidence. The
10 complaint shall be in writing, signed and sworn by the
11 complainant and notarized. The board shall prescribe the form
12 on which a complaint shall be filed.

13 C. Failure to satisfy a nonsubstantive requirement
14 for filing a complaint does not invalidate the complaint.

15 D. The board shall not accept or consider a
16 complaint unless the complaint is filed within three years from
17 the last date on which the alleged conduct or breach occurred
18 or from the last date on which a reasonable person would have
19 discovered the facts upon which the complaint is based.

20 E. When a complaint is filed, the director shall
21 present the complaint to the complaint review committee and
22 make recommendations whether the conduct alleged in the
23 complaint is within the civil enforcement jurisdiction of the
24 board and warrants investigation.

25 F. The complaint review committee shall dismiss a

1 complaint that is frivolous, unfounded or outside the board's
2 civil enforcement jurisdiction within ten days of receipt of
3 the complaint.

4 G. If the complaint review committee determines
5 that a complaint is under the jurisdiction of another entity,
6 the committee shall, within ten days of receipt of the
7 complaint, forward the complaint to the relevant entity. A
8 complaint shall be deemed to have been filed timely, for the
9 purpose of the relevant entity's deadlines, if the complaint is
10 prepared in compliance with the requirements in this section
11 and is filed with the board.

12 H. If a complaint is dismissed as frivolous,
13 unfounded or outside the board's jurisdiction, or is forwarded
14 to another entity, the complaint review committee shall notify
15 the complainant of the complaint's dismissal or referral to
16 another entity and notify the respondent of the specific
17 allegations in and the dismissal or referral of the complaint.
18 A complainant shall be notified of the complainant's ability to
19 appeal a dismissal to the board.

20 I. A complaint that is filed with the board that
21 alleges a breach by a board member shall be forwarded to the
22 judicial standards commission.

23 J. If the complaint review committee determines
24 that there is sufficient cause to proceed with an
25 investigation, it shall investigate the complaint. As part of

1 an investigation, the complaint review committee may request
2 that the district court issue subpoenas requiring the
3 attendance of witnesses or the production of books, records,
4 documents or other evidence reasonably related to the
5 investigation. After the service of a subpoena, if a person
6 neglects or refuses to comply with the subpoena, the board may
7 apply to a district court for an order enforcing the subpoena
8 and compelling compliance. The complaint review committee may
9 administer oaths, interview witnesses and examine books,
10 records, documents and other evidence reasonably related to the
11 complaint. All testimony in an investigation shall be under
12 oath, and the respondent shall have the right to be represented
13 by legal counsel. A public employee or public official who is
14 a respondent shall be entitled to representation by the risk
15 management division of the general services department, a local
16 risk management entity or other appropriate insurance carrier.

17 K. Within sixty days of the receipt of a complaint
18 under investigation, the complaint review committee shall
19 either:

20 (1) provide a copy of the complaint to the
21 respondent and notify the respondent that the respondent shall
22 file with the board a response to the complaint within thirty
23 days of the respondent's receipt of the notice, unless the
24 director approves an extension of time for filing the response;
25 or

1 (2) dismiss the complaint and notify the
2 complainant of the dismissal and notify the respondent of the
3 specific allegations in and the dismissal of the complaint.

4 L. If a respondent fails to file a response to a
5 complaint within thirty days or the extended time period
6 approved by the director, the complaint review committee shall
7 refer the complaint along with the complaint review committee's
8 investigation and recommendation to the board for its
9 consideration and decision.

10 M. Within thirty days of the filing of a
11 respondent's response, the complaint review committee shall,
12 having considered the response, either:

13 (1) dismiss the complaint and notify the
14 complainant and the respondent of the dismissal; or

15 (2) refer the complaint, response,
16 investigation and recommendation to the board for its
17 consideration and decision and notify the complainant and the
18 respondent that the complaint was referred to the board.

19 N. No later than July 1 of each even-numbered year,
20 the chief justice of the supreme court shall appoint an active
21 or pro tempore district judge to consider the issuance and
22 enforcement of subpoenas provided for in this section. The pro
23 tempore judge's appointment shall end on June 30 of the next
24 even-numbered year after appointment.

25 SECTION 11. [NEW MATERIAL] BOARD HEARINGS--FINDINGS AND

.204365.5

1 CONCLUSIONS--DISCLOSURE OF BREACH--APPEAL OF DISMISSAL.--

2 A. If a complaint is referred to the board, the
3 director shall provide the board at its next meeting a report
4 of the complaint review committee's investigation of any
5 complaints referred to the board. Based on the director's
6 report, the board shall:

7 (1) dismiss the complaint and notify the
8 complainant and the respondent of the dismissal; or

9 (2) set a public hearing, as soon as
10 practicable, and notify the complainant of the date, time and
11 place of the hearing at which the board will consider and
12 adjudicate the matter.

13 B. The hearing provided for in Subsection A of this
14 section shall be pursuant to the rules of evidence that govern
15 proceedings in the state's courts. One of the board members
16 appointed by the chief justice of the supreme court shall
17 preside over the hearing and is authorized to administer oaths.
18 The respondent has the right to be represented by counsel. The
19 parties may present evidence and testimony, compel the presence
20 of witnesses and examine and cross-examine witnesses.

21 C. After the hearing, if the board finds by clear
22 and convincing evidence that the respondent's conduct
23 constituted a willful breach, the board shall, within thirty
24 days of the hearing, issue a written report that shall include
25 findings of fact and conclusions of law. The written report

1 may include a public reprimand or censure regarding the
2 respondent's breach or recommendations for disciplinary action
3 against the respondent, and if the respondent's conduct
4 constituted a willful breach, the board shall impose any fines
5 provided for by law.

6 D. The board shall publicly disclose a report
7 issued pursuant to Subsection C of this section. If the report
8 concerns a willful breach, the board shall provide the report,
9 along with all evidence collected during the board's
10 investigation, to the respondent and the:

11 (1) speaker and majority and minority floor
12 leaders of the house of representatives if the respondent is a
13 public official who is subject to impeachment;

14 (2) respondent's appointing authority if the
15 respondent is an appointed public official;

16 (3) appropriate public body if the respondent
17 is a public employee;

18 (4) public body with which the respondent has
19 a government contract if the respondent is a government
20 contractor; or

21 (5) respondent's employer if the respondent is
22 a lobbyist.

23 E. After the hearing, if the board does not find by
24 clear and convincing evidence that the respondent's conduct
25 constituted a breach, the board shall dismiss the complaint and

1 provide notice of the dismissal to the complainant and the
2 respondent within thirty days after the hearing.

3 F. The board shall promulgate rules establishing
4 procedures for hearings.

5 SECTION 12. [NEW MATERIAL] CONFIDENTIALITY OF RECORDS.--

6 A. All complaints, reports, files, records and
7 communications collected or generated by the board, complaint
8 review committee or director that pertain to alleged breaches
9 shall not be disclosed by the board or any board member, agent
10 or employee of the board and are not subject to the Inspection
11 of Public Records Act, unless:

12 (1) disclosure is necessary to pursue an
13 investigation by the board or one of its committees;

14 (2) disclosure is required pursuant to the
15 provisions of the Public Accountability Act; or

16 (3) they are offered into evidence by the
17 board, respondent or another party at a judicial, legislative
18 or administrative proceeding.

19 B. Information and reports containing information
20 made confidential by law or exempt from the Inspection of
21 Public Records Act shall not be disclosed by the board or its
22 director, staff or contractors.

23 SECTION 13. Section 1-19-32 NMSA 1978 (being Laws 1979,
24 Chapter 360, Section 8, as amended) is amended to read:

25 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

1 A. Each of the following documents is a public
2 record open to public inspection during regular office hours in
3 the office in which the document was filed or from which the
4 document was issued:

5 (1) a statement of [~~exception~~] no activity;

6 (2) a report of expenditures and
7 contributions;

8 (3) an advisory opinion issued by the
9 [~~secretary of state~~] public accountability board;

10 (4) a document specified as a public record in
11 the Campaign Reporting Act; and

12 (5) [~~an arbitration decision issued by an~~
13 ~~arbitration panel and filed with the secretary of state~~] a
14 decision issued by a hearing officer and filed with the public
15 accountability board.

16 B. Each public record described in Subsection A of
17 this section shall be retained by the state for five years and
18 may be destroyed five years after the date of filing unless a
19 legal action or prosecution is pending that requires the
20 preservation of the public record.

21 C. The secretary of state shall provide for
22 electronic access to reports of expenditures and contributions
23 and statements of [~~exception~~] no activity submitted
24 electronically by reporting individuals. Electronic access
25 shall include access via the internet and shall be in an easily

1 searchable format."

2 SECTION 14. Section 1-19-32.1 NMSA 1978 (being Laws 1981,
3 Chapter 331, Section 9, as amended) is amended to read:

4 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF
5 REPORTS.--

6 A. The [~~secretary of state~~] public accountability
7 board shall conduct a thorough examination of at least ten
8 percent of all reports filed during a year by reporting
9 individuals, selected at random at least forty days after the
10 general election and ten days after the April reports are filed
11 in a non-election year, to determine compliance with the
12 provisions of the Campaign Reporting Act. The examination may
13 include an investigation of any discrepancies, including a
14 cross-reference to reports filed by any other reporting
15 individual. A reporting individual shall be notified in
16 writing if a discrepancy is found in the report filed and shall
17 be permitted to file a written explanation for the discrepancy
18 within ten [~~working~~] days of the date of the notice. The
19 notice, penalty and [~~arbitration~~] independent hearing officer
20 provisions set forth in Section 1-19-34.4 NMSA 1978 shall apply
21 to examinations conducted under this section.

22 B. After the date stated in the notice of final
23 action for submission of a written explanation, the [~~secretary~~
24 ~~of state~~] public accountability board shall prepare an annual
25 report of any unresolved discrepancies found after examination

.204365.5

1 of the random sample provided for in Subsection A of this
2 section. ~~[A copy of this report shall be transmitted to the~~
3 ~~attorney general for enforcement pursuant to the provisions of~~
4 ~~Section 1-19-36 NMSA 1978.]~~ This report is a public record open
5 to public inspection and subject to the retention and
6 destruction provisions set forth in Section 1-19-32 NMSA 1978."

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

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

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

22 B. ~~[The secretary of state may initiate~~
23 ~~investigations to determine whether any provision of the~~
24 ~~Campaign Reporting Act has been violated. Additionally]~~ Any
25 person who believes that a provision of ~~[that]~~ the Campaign

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

8 C. The [~~secretary of state~~] public accountability
9 board shall at all times seek to ensure voluntary compliance
10 with the provisions of the Campaign Reporting Act. If the
11 [~~secretary of state~~] board determines that a provision of that
12 act for which a penalty may be imposed has been violated, the
13 [~~secretary of state~~] board shall by written notice set forth
14 the violation and the fine imposed and inform the reporting
15 individual that [~~he~~] the individual has ten [~~working~~] days from
16 the date of the letter to correct the matter and to provide a
17 written explanation, under penalty of perjury, stating any
18 reason why the violation occurred. If a timely explanation is
19 filed and the [~~secretary of state~~] board determines that good
20 cause exists to waive the fine imposed, the [~~secretary of~~
21 ~~state~~] board may by a written notice of final action partially
22 or fully waive any fine imposed for any late, incomplete or
23 false report or statement of [~~exception~~] no activity. A
24 written notice of final action shall be sent by certified mail.

25 D. Upon receipt of the notice of final action, the

1 person against whom the penalty has been imposed may protest
2 the ~~[secretary of state's]~~ public accountability board's
3 determination, including an advisory opinion, by submitting on
4 a prescribed form a written request for ~~[binding arbitration to~~
5 ~~the secretary of state]~~ a hearing within ten ~~[working]~~ days of
6 the date of the notice of final action. The hearing shall be
7 conducted by an independent hearing officer appointed pursuant
8 to the Administrative Hearings Office Act. Any fine imposed
9 shall be due and payable within ten ~~[working]~~ days of the date
10 of notice of final action. ~~[No additional fine shall accrue~~
11 ~~pending the issuance of the arbitration decision. Fines paid~~
12 ~~pursuant to a notice of final action that are subsequently~~
13 ~~reduced or dismissed shall be reimbursed with interest within~~
14 ~~ten working days after the filing of the arbitration decision~~
15 ~~with the secretary of state. Interest on the reduced or~~
16 ~~dismissed portion of the fine shall be the same as the rate of~~
17 ~~interest earned by the secretary of state's escrow account to~~
18 ~~be established by the department of finance and administration.~~

19 E. ~~An arbitration hearing shall be conducted by a~~
20 ~~single arbitrator selected within ten days by the person~~
21 ~~against whom the penalty has been imposed from a list of five~~
22 ~~arbitrators provided by the secretary of state. Neither the~~
23 ~~secretary of state nor a person subject to the Campaign~~
24 ~~Reporting Act, Lobbyist Regulation Act or Financial Disclosure~~
25 ~~Act may serve as an arbitrator. Arbitrators shall be~~

1 ~~considered to be independent contractors, not public officers~~
2 ~~or employees, and shall not be paid per diem and mileage.~~

3 ~~F.]~~ E. The ~~[arbitrator]~~ hearing officer shall
4 conduct the hearing within thirty days of the request ~~[for~~
5 ~~arbitration. The arbitrator]~~ and may impose any penalty ~~[the~~
6 ~~secretary of state is authorized to impose]~~ provided for in the
7 Campaign Reporting Act. The ~~[arbitrator]~~ hearing officer shall
8 state the reasons for ~~[his]~~ the decision in a written document
9 that shall be a public record. ~~[The decision shall be final~~
10 ~~and binding.]~~ The decision shall be issued and filed with the
11 ~~[secretary of state]~~ public accountability board within thirty
12 days of the conclusion of the hearing. ~~[Unless otherwise~~
13 ~~provided for in this section or by rule or regulation adopted~~
14 ~~by the secretary of state, the procedures for the arbitration~~
15 ~~shall be governed by the Uniform Arbitration Act. No~~
16 ~~arbitrator shall be subject to liability for actions taken~~
17 ~~pursuant to this section.~~

18 ~~G. The secretary of state may refer a matter to the~~
19 ~~attorney general or a district attorney for a civil injunctive~~
20 ~~or other appropriate order or for criminal enforcement.]"~~

21 SECTION 16. Section 1-19-34.6 NMSA 1978 (being Laws 1995,
22 Chapter 153, Section 19) is amended to read:

23 "1-19-34.6. CIVIL PENALTIES.--

24 ~~[A. If the secretary of state reasonably believes~~
25 ~~that a person committed, or is about to commit, a violation of~~

1 ~~the Campaign Reporting Act, the secretary of state shall refer~~
2 ~~the matter to the attorney general or a district attorney for~~
3 ~~enforcement.~~

4 ~~B. The attorney general or district attorney]~~

5 A. The public accountability board may institute a
6 civil action in district court for any violation of the
7 Campaign Reporting Act or to prevent a violation of that act
8 that involves an unlawful solicitation or the making or
9 acceptance of an unlawful contribution. An action for relief
10 may include a permanent or temporary injunction, a restraining
11 order or any other appropriate order, including a civil penalty
12 of two hundred fifty dollars (\$250) for each violation not to
13 exceed five thousand dollars (\$5,000), and forfeiture of any
14 contribution received as a result of an unlawful solicitation
15 or unlawful contribution. Each unlawful solicitation and each
16 unlawful contribution made or accepted shall be deemed a
17 separate violation of the Campaign Reporting Act.

18 ~~[G. The attorney general or district attorney]~~

19 B. The public accountability board may institute a
20 civil action in district court if a violation has occurred or
21 to prevent a violation of any provision of the Campaign
22 Reporting Act other than that specified in Subsection [B] A of
23 this section. Relief may include a permanent or temporary
24 injunction, a restraining order or any other appropriate order,
25 including an order for a civil penalty of fifty dollars

1 (\$50.00) for each violation not to exceed five thousand dollars
2 (\$5,000)."

3 SECTION 17. Section 1-19-34.7 NMSA 1978 (being Laws 2009,
4 Chapter 68, Section 1) is amended to read:

5 "1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES--
6 POLITICAL COMMITTEES.--

7 A. The following contributions by the following
8 persons are prohibited:

9 (1) from a person, not including a political
10 committee, to a:

11 (a) candidate for nonstatewide office,
12 including the candidate's campaign committee, in an amount that
13 will cause that person's total contributions to the candidate
14 to exceed two thousand three hundred dollars (\$2,300) during
15 the primary election or two thousand three hundred dollars
16 (\$2,300) during the general election;

17 (b) candidate for statewide office,
18 including the candidate's campaign committee, in an amount that
19 will cause that person's total contributions to the candidate
20 to exceed five thousand dollars (\$5,000) during the primary
21 election or five thousand dollars (\$5,000) during the general
22 election; or

23 (c) political committee in an amount
24 that will cause that person's total contributions to the
25 political committee to exceed five thousand dollars (\$5,000)

.204365.5

1 during a primary election or five thousand dollars (\$5,000)
2 during a general election; and

3 (2) from a political committee to:

4 (a) a candidate for office, including
5 the candidate's campaign committee, in an amount that will
6 cause the political committee's total contributions to the
7 candidate to exceed five thousand dollars (\$5,000) during the
8 primary election or five thousand dollars (\$5,000) during the
9 general election; or

10 (b) another political committee in an
11 amount that will cause that political committee's total
12 contributions to the political committee to exceed five
13 thousand dollars (\$5,000) during a primary election or five
14 thousand dollars (\$5,000) during a general election.

15 B. All contributions made by a person to a
16 candidate, either directly or indirectly, including
17 contributions that are in any way earmarked or otherwise
18 directed through another person to a candidate, shall be
19 treated as contributions from the person to that candidate.

20 C. A person, including a political committee, shall
21 not knowingly accept or solicit a contribution, directly or
22 indirectly, including a contribution earmarked or otherwise
23 directed or coordinated through another person, including a
24 political committee, that violates the contribution limits
25 provided for in this section.

1 D. On the day after each general election, the
2 contribution amounts provided in Subsection A of this section
3 shall be increased by the percentage of the preceding two
4 calendar [~~year's~~] years' increase of the consumer price index
5 for all urban consumers, United States city average for all
6 items, published by the United States department of labor. The
7 amount of the increase shall be rounded to the nearest multiple
8 of one hundred dollars (\$100). The secretary of state shall
9 publish by October 1 before each general election the adjusted
10 contribution limits that shall take effect the day after the
11 following general election.

12 E. All contributions in excess of the limits
13 imposed by the provisions of this section shall be deposited in
14 the public election fund upon a finding by the [~~secretary of~~
15 ~~state~~] public accountability board that the contribution limits
16 have been exceeded.

17 F. The limitation on contributions to a candidate
18 provided for in Subsection A of this section shall not apply to
19 a candidate's own contribution from the candidate's personal
20 funds to the candidate's own campaign.

21 G. For the purposes of this section:

22 (1) "primary election" means the period
23 beginning on the day after the general election for the
24 applicable office and ending on the day of the primary for that
25 office; and

1 (2) "general election" means the period
2 beginning on the day after the primary for the applicable
3 office and ending on the day of the general election for that
4 office."

5 SECTION 18. Section 1-19-35 NMSA 1978 (being Laws 1979,
6 Chapter 360, Section 11, as amended) is amended to read:

7 "1-19-35. REPORTS AND STATEMENTS--LATE FILING
8 PENALTY--FAILURE TO FILE.--

9 A. Except for the report required to be filed and
10 delivered the Thursday prior to the election and any
11 supplemental report, as required in Paragraph (5) of Subsection
12 B of Section 1-19-29 NMSA 1978, that is due prior to the
13 election, and subject to the provisions of Section 1-19-34.4
14 NMSA 1978, if a statement of no activity or a report of
15 expenditures and contributions contains false or incomplete
16 information or is filed after any deadline imposed by the
17 Campaign Reporting Act, the responsible reporting individual or
18 political committee, in addition to any other penalties or
19 remedies prescribed by the Election Code, shall be liable for
20 and shall pay to the [~~secretary of state~~] public accountability
21 board fifty dollars (\$50.00) per day for each regular working
22 day after the time required by the Campaign Reporting Act for
23 the filing of statements of no activity or reports of
24 expenditures and contributions until the complete or true
25 statement or report is filed, up to a maximum of five thousand

.204365.5

1 dollars (\$5,000).

2 B. If any reporting individual files a false,
3 intentionally incomplete or late report of expenditures and
4 contributions due on the Thursday prior to the election, the
5 reporting individual or political committee shall be liable for
6 and pay to the [~~secretary of state~~] public accountability board
7 five hundred dollars (\$500) for the first working day and fifty
8 dollars (\$50.00) for each subsequent working day after the time
9 required for the filing of the report until the true and
10 complete report is filed, up to a maximum of five thousand
11 dollars (\$5,000).

12 C. If a reporting individual fails to file or files
13 a late supplemental report of expenditures and contributions as
14 required in Paragraph (5) of Subsection B of Section 1-19-29
15 NMSA 1978, the reporting individual or political committee
16 shall be liable for and pay to the [~~secretary of state~~] public
17 accountability board a penalty equal to the amount of each
18 contribution received or pledged after the Tuesday before the
19 election that was not timely filed.

20 D. All sums collected for the penalty shall be
21 deposited in the [~~state general~~] public election fund. A
22 report or statement of [~~exception~~] no activity shall be deemed
23 timely filed only if it is received by the proper filing
24 officer by the date and time prescribed by law.

25 E. Any candidate who fails or refuses to file a

1 report of expenditures and contributions or statement of no
2 activity or to pay a penalty imposed by the [~~secretary of~~
3 ~~state~~] public accountability board as required by the Campaign
4 Reporting Act shall not, in addition to any other penalties
5 provided by law:

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

9 (2) be issued a certificate of nomination or
10 election, if the violation occurs after the final date for
11 withdrawal of candidates or after the election, until the
12 candidate satisfies all reporting requirements of the Campaign
13 Reporting Act and pays all penalties owed.

14 F. The public accountability board shall maintain
15 on its website a list of persons who failed or refused to file
16 a report of expenditures and contributions or a statement of no
17 activity or to pay a penalty imposed by the board and have not
18 remedied the failure or refusal.

19 [~~F.~~] G. Any candidate who loses an election and who
20 failed or refused to file a report of expenditures and
21 contributions or a statement of no activity or to pay a penalty
22 imposed by the [~~secretary of state~~] public accountability board
23 as required by the Campaign Reporting Act shall not be, in
24 addition to any other penalties provided by law, permitted to
25 file a declaration of candidacy or nominating petition for any

1 future election until the candidate satisfies all reporting
2 requirements of that act and pays all penalties owed."

3 SECTION 19. Section 1-22A-8 NMSA 1978 (being Laws 2013,
4 Chapter 180, Section 8) is amended to read:

5 "1-22A-8. CIVIL PENALTIES.--

6 ~~[A. If the secretary of state reasonably believes~~
7 ~~that a person committed, or is about to commit, a violation of~~
8 ~~the School District Campaign Reporting Act, the secretary of~~
9 ~~state shall refer the matter to the attorney general or a~~
10 ~~district attorney for enforcement.~~

11 ~~B. The attorney general or district attorney]~~

12 A. The public accountability board may institute a
13 civil action in district court for any violation of the School
14 District Campaign Reporting Act or to prevent a violation of
15 that act that involves an unlawful solicitation or the making
16 or acceptance of an unlawful contribution. An action for
17 relief may include a permanent or temporary injunction, a
18 restraining order or any other appropriate order, including a
19 civil penalty of two hundred fifty dollars (\$250) for each
20 violation not to exceed five thousand dollars (\$5,000), and
21 forfeiture of any contribution received as a result of an
22 unlawful solicitation or unlawful contribution. Each unlawful
23 solicitation and each unlawful contribution made or accepted
24 shall be deemed a separate violation of the Campaign Reporting
25 Act.

.204365.5

1 ~~[G. The attorney general or district attorney]~~

2 B. The public accountability board may institute a
3 civil action in district court if a violation has occurred or
4 to prevent a violation of any provision of the School District
5 Campaign Reporting Act other than that specified in Subsection
6 ~~[B]~~ A of this section. Relief may include a permanent or
7 temporary injunction, a restraining order or any other
8 appropriate order, including an order for a civil penalty of
9 fifty dollars (\$50.00) for each violation not to exceed five
10 thousand dollars (\$5,000)."

11 **SECTION 20.** Section 2-6-1 NMSA 1978 (being Laws 1961,
12 Chapter 2, Section 1, as amended) is amended to read:

13 "2-6-1. LIMIT ON THE TIME WITHIN WHICH BILLS MAY BE
14 INTRODUCED.--

15 A. A bill shall not be accepted for filing until
16 after the beginning of the prohibited period for soliciting
17 campaign contributions provided for in Section 1-19-34.1 NMSA
18 1978.

19 B. No bill shall be introduced at any regular
20 session of the legislature subsequent to the thirtieth
21 legislative day in sessions held in the odd-numbered years or
22 subsequent to the fifteenth legislative day in sessions held in
23 the even-numbered years. The limitation provided in this
24 ~~[section]~~ subsection does not apply to the general
25 appropriation bill, bills to provide for the current expenses

.204365.5

1 of the government and such bills as may be referred to the
2 legislature by the governor by special message specifically
3 setting forth the emergency or necessity requiring such
4 legislation."

5 SECTION 21. Section 2-11-2 NMSA 1978 (being Laws 1977,
6 Chapter 261, Section 2, as amended) is amended to read:

7 "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation
8 Act:

9 A. "compensation" means any money, per diem,
10 salary, fee or portion thereof or the equivalent in services
11 rendered or in-kind contributions received or to be received in
12 return for lobbying services performed or to be performed;

13 B. "expenditure" means a payment, transfer or
14 distribution or obligation or promise to pay, transfer or
15 distribute any money or other thing of value but does not
16 include a lobbyist's own personal living expenses and the
17 expenses incidental to establishing and maintaining an office
18 in connection with lobbying activities or compensation paid to
19 a lobbyist by a lobbyist's employer;

20 C. "legislative committee" means a committee
21 created by the legislature, including interim and standing
22 committees of the legislature;

23 D. "lobbying" means attempting to influence:

24 (1) a decision related to any matter to be
25 considered or being considered by the legislative branch of

.204365.5

1 state government or any legislative committee or any
2 legislative matter requiring action by the governor or awaiting
3 action by the governor; or

4 (2) an official action;

5 E. "lobbyist" means any individual who is
6 compensated for the specific purpose of lobbying; is designated
7 by an interest group or organization to represent it on a
8 substantial or regular basis for the purpose of lobbying; or in
9 the course of [~~his~~] employment, is engaged in lobbying on a
10 substantial or regular basis. "Lobbyist" does not include:

11 (1) an individual who appears on [~~his~~] the
12 individual's own behalf in connection with legislation or an
13 official action;

14 (2) [~~any~~] an elected or appointed officer of
15 the state or its political subdivisions or an Indian nation,
16 tribe or pueblo acting in [~~his~~] the officer's official
17 capacity;

18 (3) an employee of the state or its political
19 subdivisions, specifically designated by an elected or
20 appointed officer of the state or its political subdivision,
21 who appears before a legislative committee or in a rulemaking
22 proceeding only to explain the effect of legislation or a rule
23 on [~~his~~] the designated employee's agency or political
24 subdivision; provided that the elected or appointed officer of
25 the state or its political subdivision keeps for public

1 inspection and files with the [~~secretary of state~~] public
2 accountability board such designation;

3 (4) [~~any~~] a designated member of the staff of
4 an elected state official; provided that the elected state
5 official keeps for public inspection and files with the
6 [~~secretary of state~~] public accountability board such
7 designation;

8 (5) a member of the legislature, the staff of
9 [~~any~~] a member of the legislature or the staff of [~~any~~] a
10 legislative committee when addressing legislation;

11 (6) [~~any~~] a witness called by a legislative
12 committee or administrative agency to appear before that
13 legislative committee or agency in connection with legislation
14 or an official action;

15 (7) an individual who provides only oral or
16 written public testimony in connection with a legislative
17 committee or in a rulemaking proceeding and whose name and the
18 interest on behalf of which [~~he~~] the individual testifies have
19 been clearly and publicly identified; [~~or~~]

20 (8) the executive director of a nonprofit
21 intergovernmental or trade association organized under the
22 provisions of Section 501(c) of the Internal Revenue Code of
23 1986 who provides oral or written public testimony in
24 connection with a legislative committee or in a rulemaking
25 proceeding and whose name and organization have been clearly

1 and publicly identified; or

2 ~~[(8)]~~ (9) a publisher, owner or employee of
3 the print media, radio or television, while gathering or
4 disseminating news or editorial comment to the general public
5 in the ordinary course of business;

6 F. "lobbyist's employer" means the person whose
7 interests are being represented and by whom a lobbyist is
8 directly or indirectly retained, compensated or employed;

9 G. "official action" means the action or nonaction
10 of a state official or state agency, board or commission acting
11 in a rulemaking proceeding;

12 H. "person" means an individual, partnership,
13 association, committee, federal, state or local governmental
14 entity or agency, however constituted, public or private
15 corporation or any other organization or group of persons who
16 are voluntarily acting in concert;

17 I. "political contribution" means a gift,
18 subscription, loan, advance or deposit of ~~[any]~~ money or other
19 thing of value, including the estimated value of an in-kind
20 contribution, that is made or received for the purpose of
21 influencing a primary, general or statewide election, including
22 a constitutional or other question submitted to the voters, or
23 for the purpose of paying a debt incurred in any such election;

24 J. "prescribed form" means a form prepared and
25 prescribed by the secretary of state;

1 K. "rulemaking proceeding" means a formal process
2 conducted by a state agency, board or commission for the
3 purpose of adopting a rule, regulation, standard, policy or
4 other requirement of general applicability and does not include
5 adjudicatory proceedings; and

6 L. "state public officer" means a person holding a
7 statewide office provided for in the constitution of New
8 Mexico."

9 SECTION 22. Section 2-11-8.2 NMSA 1978 (being Laws 1977,
10 Chapter 261, Section 4, as amended) is amended to read:

11 "2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--
12 BINDING ARBITRATION--CIVIL PENALTIES.--

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

23 B. The ~~[secretary of state]~~ public accountability
24 board may conduct thorough examinations of reports and initiate
25 investigations to determine whether the Lobbyist Regulation Act

.204365.5

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]~~ board. The ~~[secretary~~
4 ~~of state]~~ board shall adopt procedures for issuing advisory
5 opinions, processing complaints and notifications of
6 violations.

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

21 D. If the person charged disputes the ~~[secretary of~~
22 ~~state's]~~ public accountability board's determination, including
23 an advisory opinion, the person charged may request ~~[binding~~
24 ~~arbitration]~~ a hearing within ten ~~[working]~~ days of the date of
25 the final action. The hearing shall be conducted by an

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

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

22 ~~F.]~~ E. The ~~[arbitrator]~~ independent hearing officer
23 shall conduct the hearing within thirty days of the request and
24 may impose any penalty and take any action ~~[the secretary of~~
25 ~~state is]~~ authorized ~~[to take]~~ by the Lobbyist Regulation Act.

1 The ~~[arbitrator]~~ hearing officer shall state the reasons for
2 ~~[his]~~ the decision in a written document that shall be a public
3 record. ~~[The decision shall be final and binding.]~~ The
4 decision shall be issued and filed with the ~~[secretary of~~
5 ~~state]~~ public accountability board within thirty days of the
6 conclusion of the hearing. ~~[Unless otherwise provided for in~~
7 ~~this section, or by rule or regulation adopted by the secretary~~
8 ~~of state, the procedures for the arbitration shall be governed~~
9 ~~by the Uniform Arbitration Act. No arbitrator shall be subject~~
10 ~~to liability for actions taken pursuant to this section.~~

11 ~~G. Any]~~ F. A person who files a report after the
12 deadline imposed by the Lobbyist Regulation Act, or ~~[any]~~ a
13 person who files a false or incomplete report, shall be liable
14 for and shall pay to the ~~[secretary of state]~~ public election
15 fund fifty dollars (\$50.00) per day for each regular working
16 day after the time required for the filing of the report until
17 the complete report is filed, up to a maximum of five thousand
18 dollars (\$5,000).

19 ~~[H. The secretary of state may refer a matter to~~
20 ~~the attorney general or a district attorney for a civil~~
21 ~~injunctive or other appropriate order or enforcement.]"~~

22 SECTION 23. Section 2-15-7 NMSA 1978 (being Laws 1993,
23 Chapter 46, Section 52) is amended to read:

24 "2-15-7. ~~[INTERIM]~~ LEGISLATIVE ETHICS COMMITTEE--
25 CREATION--APPOINTMENT.--

1 A. ~~[An "interim]~~ The "legislative ethics
2 committee", appointed by the New Mexico legislative council, is
3 created as a permanent committee with authority to meet during
4 the interim and the legislative session. Members of the New
5 Mexico legislative council shall be allowed to serve on the
6 ~~[interim]~~ legislative ethics committee.

7 B. All matters ~~[arising in the interim]~~ pertaining
8 to legislative ethics shall be referred to ~~[this special~~
9 ~~interim]~~ the legislative ethics committee.

10 C. The committee shall be appointed by the
11 New Mexico legislative council so as to give the two major
12 political parties in each house equal representation on the
13 committee. In appointing the members to the committee, the New
14 Mexico legislative council shall adopt the recommendations of
15 the respective floor leaders of each house.

16 D. The legislative ethics committee shall include
17 two nonvoting public members, one appointed with the agreement
18 of the speaker and majority and minority leaders of the house
19 of representatives and one appointed with the agreement of the
20 president pro tempore and the majority and minority leaders of
21 the senate.

22 ~~[D-]~~ E. The New Mexico legislative council shall
23 name the ~~[interim]~~ legislative ethics committee at the
24 beginning of each interim, but the committee shall convene ~~[the~~
25 ~~committee]~~ only upon the receipt of a complaint, a request for

1 an advisory opinion or a referral."

2 SECTION 24. Section 2-15-8 NMSA 1978 (being Laws 1993,
3 Chapter 46, Section 53) is amended to read:

4 "2-15-8. ~~[INTERIM]~~ LEGISLATIVE ETHICS COMMITTEE--
5 DUTIES.--

6 A. The ~~[interim]~~ legislative ethics committee is
7 authorized to:

8 ~~[A.]~~ (1) issue advisory opinions on the
9 interpretation and enforcement of ethical principles as applied
10 to the legislature and that are not under the jurisdiction of
11 the public accountability board;

12 ~~[B.]~~ (2) investigate complaints from another
13 member of the legislature or a member of the public alleging
14 misconduct of a legislator;

15 ~~[C.]~~ (3) investigate referrals made to the
16 ~~[co-chairmen]~~ co-chairs of the New Mexico legislative council
17 from the public accountability board, the attorney general, the
18 secretary of state or a district attorney;

19 ~~[D.]~~ (4) hire special counsel, arbitrators or
20 independent hearing officers as necessary; and

21 ~~[E.]~~ (5) make recommendations to the
22 respective houses ~~[by the end of the first full week of the~~
23 ~~next convened regular session]~~ regarding proposed sanctions for
24 ethical misconduct.

25 B. The legislative ethics committee shall issue an

.204365.5

1 annual report no later than the first day of May of each year
2 regarding its activities during the previous twelve months,
3 including a listing of the number of complaints received, the
4 disposition of the complaints that have been resolved and the
5 advisory opinions issued.

6 C. The legislative ethics committee shall maintain
7 a web page on the legislature's website."

8 SECTION 25. Section 2-15-9 NMSA 1978 (being Laws 1993,
9 Chapter 46, Section 54) is amended to read:

10 "2-15-9. ~~[INTERIM]~~ LEGISLATIVE ETHICS COMMITTEE--
11 PROCEDURES--CONFIDENTIALITY.--

12 A. Except as provided in this section, the
13 New Mexico legislative council shall develop procedures to
14 carry out the provisions of this section ~~[in accordance with~~
15 ~~the existing procedures in the house and senate rules]~~.

16 B. A member of the ~~[interim]~~ legislative ethics
17 committee ~~[shall be]~~ is ineligible to participate in any matter
18 relating directly to that member's conduct. In any such case,
19 a substitute member to the committee shall be appointed from
20 the same house from the same political party by the appropriate
21 appointing authority. A member may seek to be disqualified
22 from any matter brought before the legislative ethics committee
23 on the grounds that the member cannot render a fair and
24 impartial decision. Disqualification ~~[must]~~ shall be approved
25 by ~~[a majority vote of the remaining members of the committee]~~

1 the appropriate appointing authority. In any such case, a
2 substitute member to the committee shall be appointed from the
3 same political party as provided in this section.

4 C. The ~~[interim]~~ legislative ethics committee is
5 authorized to issue advisory opinions on matters relating to
6 ethical conduct ~~[during the interim]~~. Any question relating to
7 the interpretation and enforcement of ethical principles as
8 applied to the legislature may be submitted in writing to the
9 ~~[New Mexico]~~ director of the legislative council service by a
10 legislator describing a real or hypothetical situation and
11 requesting an advisory opinion establishing an appropriate
12 standard of ethical conduct for that situation. The question
13 shall be referred to the ~~[joint interim]~~ legislative ethics
14 committee. The public members of the committee shall be
15 allowed to participate in committee meetings related to
16 advisory opinions.

17 D. To initiate any action ~~[during the interim on~~
18 ~~alleged]~~ alleging misconduct ~~[any]~~:

19 (1) a legislator ~~[or member of the public may]~~
20 shall file with the director of the legislative council service
21 a written, sworn, notarized complaint setting forth, with
22 specificity, the facts alleged to constitute unethical conduct;
23 and

24 (2) a member of the public shall file with the
25 public accountability board a written, sworn, notarized

1 complaint setting forth, with specificity, the facts alleged to
2 constitute unethical conduct.

3 E. A complaint [~~shall be~~] filed with the [~~New~~
4 ~~Mexico~~] director of the legislative council service shall be
5 forwarded to the appropriate co-chairs of the legislative
6 ethics committee. Upon receipt of [~~the~~] a complaint, the [~~co-~~
7 ~~chairmen~~] co-chairs shall convene the [~~interim~~] legislative
8 ethics committee. The public member appointed by the chamber
9 in which the subject of a complaint sits shall be allowed to
10 participate in legislative ethics committee meetings related to
11 that complaint.

12 [~~E.~~] F. The [~~interim~~] legislative ethics committee
13 shall maintain rules of confidentiality unless the legislator
14 against whom a complaint is filed waives the rules or any part
15 of them in writing. The confidentiality rules shall include
16 the following provisions:

17 (1) the complainant, the committee and its
18 staff shall not publicly disclose any information relating to
19 the filing or investigation of a complaint, including the
20 identity of the complainant or respondent, until after a
21 finding of probable cause has been made that a violation has
22 occurred;

23 (2) the identity of the complainant shall be
24 released to the respondent immediately upon request; and

25 (3) no member of the committee or its staff

1 may knowingly disclose any confidential information except as
2 authorized by the committee."

3 SECTION 26. Section 2-15-11 NMSA 1978 (being Laws 1993,
4 Chapter 46, Section 56) is amended to read:

5 "2-15-11. LEGISLATIVE ETHICS COMMITTEE--STAFF.--The staff
6 for the [~~interim~~] legislative ethics committee shall be
7 provided by the legislative council service, but the committee
8 is authorized to hire such special counsel, arbitrators or
9 independent hearing officers as provided for in the
10 Administrative Hearings Office Act, as necessary to assist the
11 [~~legislative ethics~~] committee when it is convened."

12 SECTION 27. Section 2-15-12 NMSA 1978 (being Laws 1993,
13 Chapter 46, Section 57) is amended to read:

14 "2-15-12. [~~NEW MEXICO~~] LEGISLATIVE [COUNCIL] ETHICS
15 COMMITTEE--BUDGET.--The New Mexico legislative council shall
16 annually provide an amount sufficient to carry out the duties
17 and mandate of the [~~interim~~] legislative ethics committee."

18 SECTION 28. Section 7-1B-6 NMSA 1978 (being Laws 2015,
19 Chapter 73, Section 6) is amended to read:

20 "7-1B-6. HEARING OFFICER CODE OF CONDUCT--INDEPENDENCE.--

21 A. The chief hearing officer shall:

22 (1) adopt and promulgate a hearing officer
23 code of conduct; and

24 (2) periodically evaluate each hearing
25 officer's performance for competency, efficiency and

.204365.5

1 professional demeanor in [~~accord~~] accordance with relevant
2 legal standards and the hearing officer code of conduct.

3 B. The chief hearing officer shall ensure that each
4 hearing officer has decisional independence; however, the chief
5 hearing officer may:

6 (1) consult with a hearing officer about a
7 genuine question of law; and

8 (2) review with a hearing officer any issue on
9 appeal addressed by a court of this state.

10 C. The administrative hearings office shall:

11 (1) hear all tax protests pursuant to the
12 provisions of the Tax Administration Act;

13 (2) hear property tax protests pursuant to the
14 provisions of the Property Tax Code;

15 (3) hear all certificate-denial protests
16 pursuant to the provisions of Section 13-1-22 NMSA 1978;

17 (4) conduct all adjudicatory hearings pursuant
18 to the Motor Vehicle Code;

19 (5) conduct all driver's license revocation
20 hearings pursuant to the provisions of the Implied Consent Act;

21 (6) as authorized in statute, conduct all
22 hearings related to decisions of the public accountability
23 board;

24 [~~(6)~~] (7) make and preserve a complete record
25 of all proceedings; and

.204365.5

1 [~~(7)~~] (8) maintain confidentiality regarding
2 taxpayer information as required by the provisions of Section
3 7-1-8 NMSA 1978.

4 D. In hearings conducted pursuant to the Tax
5 Administration Act, Section 13-1-22 NMSA 1978 and the Motor
6 Vehicle Code:

7 (1) the rules of evidence that govern
8 proceedings in the state's courts do not apply. The hearing
9 officer may require reasonable substantiation of statements or
10 records tendered, the accuracy or truth of which is in
11 reasonable doubt, to rule on the admissibility of evidence. A
12 taxpayer or the taxation and revenue department may request a
13 written ruling on a contested question of evidence in a matter
14 in which the taxpayer has filed a written protest and for which
15 that protest is pending. The administrative hearings office
16 shall issue a copy of its written ruling to the taxation and
17 revenue department at the time the ruling is issued to the
18 taxpayer;

19 (2) the Rules of Civil Procedure for the
20 District Courts do not apply. The hearing officer shall
21 conduct a hearing to allow the ample and fair presentation of
22 complaints and defenses. The hearing officer shall hear
23 arguments, permit discovery, entertain and dispose of motions,
24 require written expositions of the case as the circumstances
25 justify and render a decision in accordance with the law and

1 the evidence presented and admitted. A taxpayer or the
2 taxation and revenue department may request a written ruling on
3 a contested question of procedure in a matter in which the
4 taxpayer has filed a written protest and for which that protest
5 is pending. The administrative hearings office shall issue a
6 copy of its written ruling to the taxation and revenue
7 department at the time the ruling is issued to the taxpayer;
8 and

9 (3) the hearing officer may administer oaths
10 and issue subpoenas for the attendance of witnesses and the
11 production of relevant books and papers, and for hearings
12 conducted for a license suspension pursuant to Section 66-5-30
13 NMSA 1978, the hearing officer may require a reexamination of
14 the licensee."

15 **SECTION 29.** Section 10-15-1 NMSA 1978 (being Laws 1974,
16 Chapter 91, Section 1, as amended) is amended to read:

17 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN
18 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

19 A. In recognition of the fact that a representative
20 government is dependent upon an informed electorate, it is
21 declared to be public policy of this state that all persons are
22 entitled to the greatest possible information regarding the
23 affairs of government and the official acts of those officers
24 and employees who represent them. The formation of public
25 policy or the conduct of business by vote shall not be

1 conducted in closed meeting. All meetings of any public body
2 except the legislature and the courts shall be public meetings,
3 and all persons so desiring shall be permitted to attend and
4 listen to the deliberations and proceedings. Reasonable
5 efforts shall be made to accommodate the use of audio and video
6 recording devices.

7 B. All meetings of a quorum of members of any
8 board, commission, administrative adjudicatory body or other
9 policymaking body of any state agency or any agency or
10 authority of any county, municipality, district or political
11 subdivision, held for the purpose of formulating public policy,
12 including the development of personnel policy, rules,
13 regulations or ordinances, discussing public business or taking
14 any action within the authority of or the delegated authority
15 of any board, commission or other policymaking body are
16 declared to be public meetings open to the public at all times,
17 except as otherwise provided in the constitution of New Mexico
18 or the Open Meetings Act. No public meeting once convened that
19 is otherwise required to be open pursuant to the Open Meetings
20 Act shall be closed or dissolved into small groups or
21 committees for the purpose of permitting the closing of the
22 meeting.

23 C. If otherwise allowed by law or rule of the
24 public body, a member of a public body may participate in a
25 meeting of the public body by means of a conference telephone

1 or other similar communications equipment when it is otherwise
2 difficult or impossible for the member to attend the meeting in
3 person; provided that each member participating by conference
4 telephone can be identified when speaking, all participants are
5 able to hear each other at the same time and members of the
6 public attending the meeting are able to hear any member of the
7 public body who speaks during the meeting.

8 D. Any meetings at which the discussion or adoption
9 of any proposed resolution, rule, regulation or formal action
10 occurs and at which a majority or quorum of the body is in
11 attendance, and any closed meetings, shall be held only after
12 reasonable notice to the public. The affected body shall
13 determine at least annually in a public meeting what notice for
14 a public meeting is reasonable when applied to that body. That
15 notice shall include broadcast stations licensed by the federal
16 communications commission and newspapers of general circulation
17 that have provided a written request for such notice.

18 E. A public body may recess and reconvene a meeting
19 to a day subsequent to that stated in the meeting notice if,
20 prior to recessing, the public body specifies the date, time
21 and place for continuation of the meeting and, immediately
22 following the recessed meeting, posts notice of the date, time
23 and place for the reconvened meeting on or near the door of the
24 place where the original meeting was held and in at least one
25 other location appropriate to provide public notice of the

1 continuation of the meeting. Only matters appearing on the
2 agenda of the original meeting may be discussed at the
3 reconvened meeting.

4 F. Meeting notices shall include an agenda
5 containing a list of specific items of business to be discussed
6 or transacted at the meeting or information on how the public
7 may obtain a copy of such an agenda. Except in the case of an
8 emergency or in the case of a public body that ordinarily meets
9 more frequently than once per week, at least seventy-two hours
10 prior to the meeting, the agenda shall be available to the
11 public and posted on the public body's ~~[web-site]~~ website, if
12 one is maintained. A public body that ordinarily meets more
13 frequently than once per week shall post a draft agenda at
14 least seventy-two hours prior to the meeting and a final agenda
15 at least thirty-six hours prior to the meeting. Except for
16 emergency matters, a public body shall take action only on
17 items appearing on the agenda. For purposes of this
18 subsection, "emergency" refers to unforeseen circumstances
19 that, if not addressed immediately by the public body, will
20 likely result in injury or damage to persons or property or
21 substantial financial loss to the public body. Within ten days
22 of taking action on an emergency matter, the public body shall
23 report to the ~~[attorney general's office]~~ public accountability
24 board the action taken and the circumstances creating the
25 emergency; provided that the requirement to report to the

1 ~~[attorney general]~~ public accountability board is waived upon
2 the declaration of a state or national emergency.

3 G. The board, commission or other policymaking body
4 shall keep written minutes of all its meetings. The minutes
5 shall include at a minimum the date, time and place of the
6 meeting, the names of members in attendance and those absent,
7 the substance of the proposals considered and a record of any
8 decisions and votes taken that show how each member voted. All
9 minutes are open to public inspection. Draft minutes shall be
10 prepared within ten working days after the meeting and shall be
11 approved, amended or disapproved at the next meeting where a
12 quorum is present. Minutes shall not become official until
13 approved by the policymaking body.

14 H. The provisions of Subsections A, B and G of this
15 section do not apply to:

16 (1) meetings pertaining to issuance,
17 suspension, renewal or revocation of a license, except that a
18 hearing at which evidence is offered or rebutted shall be open.
19 All final actions on the issuance, suspension, renewal or
20 revocation of a license shall be taken at an open meeting;

21 (2) limited personnel matters; provided that
22 for purposes of the Open Meetings Act, "limited personnel
23 matters" means the discussion of hiring, promotion, demotion,
24 dismissal, assignment or resignation of or the investigation or
25 consideration of complaints or charges against any individual

1 public employee; provided further that this paragraph is not to
2 be construed as to exempt final actions on personnel from being
3 taken at open public meetings, nor does it preclude an
4 aggrieved public employee from demanding a public hearing.

5 Judicial candidates interviewed by any commission shall have
6 the right to demand an open interview;

7 (3) deliberations by a public body in
8 connection with an administrative adjudicatory proceeding. For
9 purposes of this paragraph, "administrative adjudicatory
10 proceeding" means a proceeding brought by or against a person
11 before a public body in which individual legal rights, duties
12 or privileges are required by law to be determined by the
13 public body after an opportunity for a trial-type hearing.
14 Except as otherwise provided in this section, the actual
15 administrative adjudicatory proceeding at which evidence is
16 offered or rebutted and any final action taken as a result of
17 the proceeding shall occur in an open meeting;

18 (4) the discussion of personally identifiable
19 information about any individual student, unless the student or
20 the student's parent or guardian requests otherwise;

21 (5) meetings for the discussion of bargaining
22 strategy preliminary to collective bargaining negotiations
23 between the policymaking body and a bargaining unit
24 representing the employees of that policymaking body and
25 collective bargaining sessions at which the policymaking body

1 and the representatives of the collective bargaining unit are
2 present;

3 (6) that portion of meetings at which a
4 decision concerning purchases in an amount exceeding two
5 thousand five hundred dollars (\$2,500) that can be made only
6 from one source is discussed and that portion of meetings at
7 which the contents of competitive sealed proposals solicited
8 pursuant to the Procurement Code are discussed during the
9 contract negotiation process. The actual approval of purchase
10 of the item or final action regarding the selection of a
11 contractor shall be made in an open meeting;

12 (7) meetings subject to the attorney-client
13 privilege pertaining to threatened or pending litigation in
14 which the public body is or may become a participant;

15 (8) meetings for the discussion of the
16 purchase, acquisition or disposal of real property or water
17 rights by the public body;

18 (9) those portions of meetings of committees
19 or boards of public hospitals where strategic and long-range
20 business plans or trade secrets are discussed; ~~[and]~~

21 (10) that portion of a meeting of the gaming
22 control board dealing with information made confidential
23 pursuant to the provisions of the Gaming Control Act; and

24 (11) except as provided in the Public
25 Accountability Act, meetings of the public accountability board

1 or its committees that relate to complaints or investigations.

2 I. If any meeting is closed pursuant to the
3 exclusions contained in Subsection H of this section:

4 (1) the closure, if made in an open meeting,
5 shall be approved by a majority vote of a quorum of the
6 policymaking body; the authority for the closure and the
7 subject to be discussed shall be stated with reasonable
8 specificity in the motion calling for the vote on a closed
9 meeting; the vote shall be taken in an open meeting; and the
10 vote of each individual member shall be recorded in the
11 minutes. Only those subjects announced or voted upon prior to
12 closure by the policymaking body may be discussed in a closed
13 meeting; or

14 (2) if a closure is called for when the
15 policymaking body is not in an open meeting, the closed meeting
16 shall not be held until public notice, appropriate under the
17 circumstances, stating the specific provision of the law
18 authorizing the closed meeting and stating with reasonable
19 specificity the subject to be discussed is given to the members
20 and to the general public.

21 J. Following completion of any closed meeting, the
22 minutes of the open meeting that was closed or the minutes of
23 the next open meeting if the closed meeting was separately
24 scheduled shall state that the matters discussed in the closed
25 meeting were limited only to those specified in the motion for

1 closure or in the notice of the separate closed meeting. This
2 statement shall be approved by the public body under Subsection
3 G of this section as part of the minutes."

4 SECTION 30. Section 10-15-3 NMSA 1978 (being Laws 1974,
5 Chapter 91, Section 3, as amended) is amended to read:

6 "10-15-3. INVALID ACTIONS--STANDING.--

7 A. No resolution, rule, regulation, ordinance or
8 action of any board, commission, committee or other
9 policymaking body shall be valid unless taken or made at a
10 meeting held in accordance with the requirements of Section
11 10-15-1 NMSA 1978. Every resolution, rule, regulation,
12 ordinance or action of any board, commission, committee or
13 other policymaking body shall be presumed to have been taken or
14 made at a meeting held in accordance with the requirements of
15 Section 10-15-1 NMSA 1978.

16 B. Civil enforcement of all provisions of the Open
17 Meetings Act shall be ~~[enforced]~~ by the ~~[attorney general or by~~
18 ~~the district attorney in the county of jurisdiction]~~ public
19 accountability board. However, nothing in that act shall
20 prevent an individual from independently applying for
21 enforcement through the district courts; provided that the
22 individual first provides written notice of the claimed
23 violation to the public body and that the public body has
24 denied or not acted on the claim within fifteen days of
25 receiving it. A public meeting held to address a claimed

.204365.5

1 violation of the Open Meetings Act shall include a summary of
2 comments made at the meeting at which the claimed violation
3 occurred.

4 C. The district courts of this state shall have
5 jurisdiction, upon the application of any person to enforce the
6 purpose of the Open Meetings Act, by injunction, mandamus or
7 other appropriate order. The court shall award costs and
8 reasonable attorney fees to any person who is successful in
9 bringing a court action to enforce the provisions of the Open
10 Meetings Act. If the prevailing party in a legal action
11 brought under this section is a public body defendant, it shall
12 be awarded court costs. A public body defendant that prevails
13 in a court action brought under this section shall be awarded
14 its reasonable attorney fees from the plaintiff if the
15 plaintiff brought the action without sufficient information and
16 belief that good grounds supported it.

17 D. No section of the Open Meetings Act shall be
18 construed to preclude other remedies or rights not relating to
19 the question of open meetings."

20 SECTION 31. Section 10-16-11 NMSA 1978 (being Laws 1967,
21 Chapter 306, Section 11, as amended) is amended to read:

22 "10-16-11. CODES OF CONDUCT.--

23 A. [~~By January 1, 1994~~] Each elected statewide
24 executive branch public officer shall adopt a general code of
25 conduct for employees subject to ~~[his]~~ the officer's control.

.204365.5

1 The New Mexico legislative council shall adopt a general code
2 of conduct for all legislative branch employees. The general
3 codes of conduct shall be based on the principles set forth in
4 the Governmental Conduct Act.

5 B. Within thirty days after the general codes of
6 conduct are adopted, they shall be given to and reviewed with
7 all executive and legislative branch officers and employees.
8 All new public officers and employees of the executive and
9 legislative branches shall review the employees' general code
10 of conduct prior to or at the time of being hired.

11 C. The head of every executive and legislative
12 agency and institution of the state may draft a separate code
13 of conduct for all public officers and employees in that agency
14 or institution. The separate agency code of conduct shall
15 prescribe standards, in addition to those set forth in the
16 Governmental Conduct Act and the general codes of conduct for
17 all executive and legislative branch public officers and
18 employees, that are peculiar and appropriate to the function
19 and purpose for which the agency or institution was created or
20 exists. The separate codes, upon approval of the responsible
21 executive branch public officer for executive branch public
22 officers and employees or the New Mexico legislative council
23 for legislative branch employees, govern the conduct of the
24 public officers and employees of that agency or institution
25 and, except for those public officers and employees removable

.204365.5

1 only by impeachment, shall, if violated, constitute cause for
2 dismissal, demotion or suspension. The head of each executive
3 and legislative branch agency shall adopt ongoing education
4 programs to advise public officers and employees about the
5 codes of conduct. All codes shall be filed with the [~~secretary~~
6 ~~of state~~] public accountability board and are open to public
7 inspection.

8 D. Codes of conduct shall be reviewed at least once
9 every four years. An amended code shall be filed as provided
10 in Subsection C of this section.

11 E. All legislators shall attend a minimum of two
12 hours of ethics continuing education and training developed and
13 provided by the public accountability board biennially."

14 SECTION 32. Section 10-16-13.1 NMSA 1978 (being Laws
15 1993, Chapter 46, Section 35) is amended to read:

16 "10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

17 A. The secretary of state shall advise and seek to
18 educate all persons required to perform duties under the
19 Governmental Conduct Act of those duties. This includes
20 advising all those persons at least annually of that act's
21 ethical principles.

22 B. The [~~secretary of state~~] public accountability
23 board shall seek first to ensure voluntary compliance with the
24 provisions of the Governmental Conduct Act. A person who
25 violates that act unintentionally or for good cause shall be

1 given ten days' notice to correct the matter. Referrals for
2 civil enforcement of that act shall be pursued only after
3 efforts to secure voluntary compliance with that act have
4 failed."

5 SECTION 33. Section 10-16-18 NMSA 1978 (being Laws 1995,
6 Chapter 153, Section 23) is amended to read:

7 "10-16-18. ENFORCEMENT--CIVIL PENALTIES.--~~[A.]~~ If the
8 ~~[secretary of state]~~ public accountability board reasonably
9 believes that a person committed, or is about to commit, a
10 willful violation of the Governmental Conduct Act, the
11 ~~[secretary of state] board shall [refer the matter to the~~
12 ~~attorney general or a district attorney for enforcement.~~

13 ~~B. The attorney general or a district attorney may]~~
14 institute a civil action in district court if a violation has
15 occurred or to prevent a violation of ~~[any]~~ a provision of the
16 Governmental Conduct Act. Relief may include a permanent or
17 temporary injunction, a restraining order or any other
18 appropriate order, including an order for a civil penalty of
19 two hundred fifty dollars (\$250) for each violation not to
20 exceed five thousand dollars (\$5,000)."

21 SECTION 34. Section 10-16A-1 NMSA 1978 (being Laws 1993,
22 Chapter 46, Section 39) is amended to read:

23 "10-16A-1. SHORT TITLE--FINANCIAL DISCLOSURE ACT.--
24 ~~[Sections 39 through 45 of this act]~~ Chapter 10, Article 16A
25 NMSA 1978 may be cited as the "Financial Disclosure Act".

1 SECTION 35. Section 10-16A-5 NMSA 1978 (being Laws 1993,
2 Chapter 46, Section 43) is amended to read:

3 "10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

4 A. The secretary of state shall advise and seek to
5 educate all persons required to perform duties under the
6 Financial Disclosure Act of those duties. This includes
7 providing timely advance notice of the required financial
8 disclosure statement and preparing forms that are clear and
9 easy to complete.

10 B. The ~~[secretary of state]~~ public accountability
11 board shall seek first to ensure voluntary compliance with the
12 provisions of the Financial Disclosure Act. A person who
13 violates that act unintentionally or for good cause shall be
14 given ten days' notice to correct the matter ~~[before fines are~~
15 ~~imposed. Referrals for civil enforcement of the Financial~~
16 ~~Disclosure Act shall be pursued only after efforts to secure~~
17 ~~voluntary compliance with that act have failed]."~~

18 SECTION 36. Section 10-16A-6 NMSA 1978 (being Laws 1993,
19 Chapter 46, Section 44, as amended) is amended to read:

20 "10-16A-6. INVESTIGATIONS--~~[BINDING ARBITRATION]~~
21 HEARING--FINES--ENFORCEMENT.--

22 A. ~~[The secretary of state may conduct thorough~~
23 ~~examinations of statements and initiate investigations to~~
24 ~~determine whether the Financial Disclosure Act has been~~
25 ~~violated.]~~ Any person who believes that the Financial

1 Disclosure Act has been violated may file a written complaint
2 with the [~~secretary of state~~] public accountability board. The
3 [~~secretary of state~~] board shall adopt procedures for
4 processing complaints and notifications of violations.

5 B. If the [~~secretary of state~~] public
6 accountability board determines that a violation has occurred
7 for which a penalty should be imposed, the [~~secretary of state~~]
8 board shall so notify the person charged and impose the
9 penalty. If the person charged disputes the [~~secretary of~~
10 ~~state's~~] board's determination, the person charged may request
11 [~~binding arbitration~~].

12 ~~C. The arbitration decision shall be decided 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. No arbitrator~~
16 ~~may be a person subject to the Financial Disclosure Act,~~
17 ~~Campaign Reporting Act or Lobbyist Regulation Act. Arbitrators~~
18 ~~shall be considered to be independent contractors, not public~~
19 ~~officers or employees, and shall not be paid per diem and~~
20 ~~mileage] a hearing. The hearing shall be conducted by an~~
21 independent hearing officer appointed pursuant to the
22 Administrative Hearings Office Act.

23 [~~D.~~] C. The [~~arbitrator~~] hearing officer shall
24 conduct the hearing within thirty days of the request and may
25 take any action [~~the secretary of state is~~] authorized [~~to~~

1 ~~take]~~ by the Financial Disclosure Act. The ~~[arbitrator]~~
2 hearing officer shall state the reasons for ~~[his]~~ the decision
3 in a written document that shall be a public record. ~~[The~~
4 ~~decision shall be final and binding.]~~ The decision shall be
5 issued and filed with the board within thirty days of the
6 conclusion of the hearing. ~~[Unless otherwise provided for in~~
7 ~~this section, or by rule or regulation adopted by the secretary~~
8 ~~of state, the procedures for the arbitration shall be governed~~
9 ~~by the Uniform Arbitration Act. No arbitrator shall be subject~~
10 ~~to liability for actions taken pursuant to this section.~~

11 ~~E.—Any]~~ D. A person who files a statement or
12 report after the deadline imposed by the Financial Disclosure
13 Act, or ~~[any]~~ a person who files a false or incomplete
14 statement or report, ~~[is]~~ shall be liable for and shall pay to
15 the ~~[secretary of state]~~ public election fund, at or from the
16 time initially required for the filing, fifty dollars (\$50.00)
17 per day for each regular working day after the time required
18 for the filing of the statement or report until the complete
19 report is filed, up to a maximum of five thousand dollars
20 (\$5,000).

21 ~~[F.—The secretary of state may refer a matter to~~
22 ~~the attorney general or a district attorney for a civil~~
23 ~~injunctive or other appropriate order or enforcement.]"~~

24 SECTION 37. Section 10-16A-8 NMSA 1978 (being Laws 1995,
25 Chapter 153, Section 25) is amended to read:

1 "10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--[A.] If the
2 [~~secretary of state~~] public accountability board reasonably
3 believes that a person committed, or is about to commit, a
4 willful violation of the Financial Disclosure Act, the
5 [~~secretary of state~~] board shall [~~refer the matter to the~~
6 ~~attorney general or a district attorney for enforcement.~~

7 B. ~~The attorney general or a district attorney may~~
8 institute a civil action in district court if a violation has
9 occurred or to prevent a violation of [~~any~~] a provision of the
10 Financial Disclosure Act. Relief may include a permanent or
11 temporary injunction, a restraining order or any other
12 appropriate order, including an order for a civil penalty of
13 two hundred fifty dollars (\$250) for each violation not to
14 exceed five thousand dollars (\$5,000)."

15 SECTION 38. Section 13-1-177 NMSA 1978 (being Laws 1984,
16 Chapter 65, Section 150, as amended) is amended to read:

17 "13-1-177. AUTHORITY TO SUSPEND OR DEBAR.--

18 A. The state purchasing agent or [~~a central~~
19 ~~purchasing office~~] the public accountability board, after
20 consultation with the using agency, may suspend a person from
21 consideration for award of contracts if the state purchasing
22 agent or [~~central purchasing office~~] the public accountability
23 board, after reasonable investigation, finds that a person has
24 engaged in conduct that constitutes cause for debarment
25 pursuant to Section 13-1-178 NMSA 1978.

1 B. The term of a suspension pursuant to this
2 section shall not exceed three months; however, if a person,
3 including a bidder, offeror or contractor, has been charged
4 with a criminal offense that would be a cause for debarment
5 pursuant to Section 13-1-178 NMSA 1978, the suspension shall
6 remain in effect until the criminal charge is resolved and the
7 person is debarred or the reason for suspension no longer
8 exists.

9 C. The state purchasing agent or ~~[a central~~
10 ~~purchasing office]~~ the public accountability board, after
11 reasonable notice to the person involved, shall have authority
12 to recommend to the governing authority of a state agency or a
13 local public body the debarment of a person for cause from
14 consideration for award of contracts, other than contracts for
15 professional services. The debarment shall not be for a period
16 of more than three years. The authority to debar shall be
17 exercised by the governing authority of a state agency or a
18 local public body in accordance with rules that shall provide
19 for reasonable notice and a fair hearing prior to debarment.

20 D. As used in this section, the terms "person",
21 "bidder", "offeror" and "contractor" include principals,
22 officers, directors, owners, partners and managers of the
23 person, bidder, offeror or contractor."

24 SECTION 39. Section 13-1-178 NMSA 1978 (being Laws 1984,
25 Chapter 65, Section 151, as amended) is amended to read:

1 "13-1-178. CAUSES FOR DEBARMENT OR SUSPENSION--TIME
2 LIMIT.--

3 A. The causes for debarment or suspension occurring
4 within three years of the date final action on a procurement is
5 taken include but are not limited to the following:

6 (1) criminal conviction of a bidder, offeror
7 or contractor for commission of a criminal offense related to
8 obtaining unlawfully or attempting to obtain a public or
9 private contract or subcontract, or related to the unlawful
10 performance of such contract or subcontract;

11 (2) civil judgment against a bidder, offeror
12 or contractor for a civil violation related to obtaining
13 unlawfully or attempting to obtain a public or private contract
14 or subcontract, or related to the unlawful performance of such
15 contract or subcontract;

16 (3) conviction of a bidder, offeror or
17 contractor under state or federal statutes related to
18 embezzlement, theft, forgery, bribery, fraud, falsification or
19 destruction of records, making false statements or receiving
20 stolen property or for violation of federal or state tax laws;

21 (4) conviction of a bidder, offeror or
22 contractor under state or federal antitrust statutes relating
23 to the submission of offers;

24 (5) criminal conviction against a bidder,
25 offeror or contractor for any other offense related to honesty,

.204365.5

1 integrity or business ethics;

2 (6) civil judgment against a bidder, offeror
3 or contractor for a civil violation related to honesty,
4 integrity or business ethics;

5 (7) civil judgment against a bidder, offeror
6 or contractor pursuant to the Unfair Practices Act;

7 (8) violation by a bidder, offeror or
8 contractor of contract provisions, as set forth in this
9 paragraph, of a character that is reasonably regarded by the
10 state purchasing agent or ~~[a central purchasing office]~~ the
11 public accountability board to be so serious as to justify
12 suspension or debarment action, including:

13 (a) willful failure to perform in
14 accordance with one or more contracts; or

15 (b) a history of failure to perform or
16 of unsatisfactory performance of one or more contracts;
17 provided that this failure or unsatisfactory performance has
18 occurred within a reasonable time preceding the decision to
19 impose debarment; and provided further that failure to perform
20 or unsatisfactory performance caused by acts beyond the control
21 of the contractor shall not be considered to be a basis for
22 debarment;

23 (9) any other cause that the state purchasing
24 agent or ~~[a central purchasing office]~~ the public
25 accountability board determines to be so serious and compelling

.204365.5

1 as to affect responsibility as a contractor; or

2 (10) for a willful violation by a bidder,
3 offeror or contractor of the provisions of the Procurement
4 Code.

5 B. As used in this section, the terms "bidder",
6 "offeror" and "contractor" include principals, officers,
7 directors, owners, partners and managers of the bidder, offeror
8 or contractor."

9 SECTION 40. Section 13-1-180 NMSA 1978 (being Laws 1984,
10 Chapter 65, Section 153, as amended) is amended to read:

11 "13-1-180. DEBARMENT OR SUSPENSION--NOTICE OF
12 DETERMINATION.--A copy of the determination made pursuant to
13 Section 13-1-179 NMSA 1978 shall be:

14 A. mailed to the last known address on file with
15 the state purchasing agent or ~~[central purchasing office]~~ the
16 public accountability board, by first class mail, within three
17 business days after issuance of the written determination; or

18 B. transmitted electronically within three business
19 days after issuance of the written determination."

20 SECTION 41. Section 13-1-180.1 NMSA 1978 (being Laws
21 2013, Chapter 41, Section 5) is amended to read:

22 "13-1-180.1. CONTINUATION OF CURRENT CONTRACTS--
23 RESTRICTIONS ON SUBCONTRACTING.--

24 A. Notwithstanding the debarment, suspension or
25 proposed debarment of a person, a state agency or local public

.204365.5

1 body may continue contracts or subcontracts in existence at the
2 time that the person is debarred, suspended or proposed for
3 debarment unless the governing authority of the state agency or
4 local public body directs otherwise.

5 B. Unless the governing authority of a state agency
6 or local public body issues a written determination based on
7 compelling reasons holding otherwise, a person that has been
8 debarred or suspended or whose debarment has been proposed
9 shall not, after the date that the person is debarred,
10 suspended or proposed for debarment:

11 (1) incur financial obligations, including
12 those for materials, services and facilities, unless the person
13 is specifically authorized to do so under the terms and
14 conditions of the person's contract; or

15 (2) extend the duration of the person's
16 contract by adding new work, by exercising options or by taking
17 other action.

18 C. Unless pursuant to written authorization based
19 on the compelling reasons of the governing authority of a state
20 agency or local public body, the state purchasing agent or [~~a~~
21 ~~central purchasing office~~] the public accountability board
22 shall not consent to enter a subcontract subject to the
23 Procurement Code with a person that has been debarred,
24 suspended or proposed for debarment.

25 D. A person that has entered into a contract

1 subject to the Procurement Code shall not subcontract with
2 another person that has been debarred, suspended or proposed
3 for debarment without the written authorization of the state
4 purchasing agent or ~~[a central purchasing office]~~ the public
5 accountability board. A person that wishes to subcontract with
6 another person that has been debarred, suspended or proposed
7 for debarment shall make a request to the applicable state
8 agency or local public body that includes the following:

- 9 (1) the name of the proposed subcontractor;
- 10 (2) information about the proposed
11 subcontractor's debarment, suspension or proposed debarment;
- 12 (3) the requester's compelling reasons for
13 seeking a subcontract with the proposed subcontractor; and
- 14 (4) a statement of how the person will protect
15 the interests of the state agency or local public body
16 considering the proposed subcontractor's debarment, suspension
17 or proposed debarment."

18 **SECTION 42.** Section 13-1-196 NMSA 1978 (being Laws 1984,
19 Chapter 65, Section 169) is amended to read:

20 "13-1-196. CIVIL PENALTY.--Any person, firm or
21 corporation that knowingly violates any provision of the
22 Procurement Code is subject to a civil penalty of not more than
23 one thousand dollars (\$1,000) for each procurement in violation
24 of any provision of the Procurement Code. The ~~[attorney~~
25 ~~general or the district attorney in the jurisdiction in which~~

1 ~~the violation occurs]~~ public accountability board is empowered
2 to bring a civil action for the enforcement of any provision of
3 the Procurement Code. Any penalty collected under the
4 provisions of this section shall be credited to the general
5 fund of the political subdivision in which the violation
6 occurred and on whose behalf the suit was brought."

7 SECTION 43. Section 14-2-12 NMSA 1978 (being Laws 1993,
8 Chapter 258, Section 9) is amended to read:

9 "14-2-12. ENFORCEMENT.--

10 A. An action to enforce the Inspection of Public
11 Records Act may be brought by:

12 (1) the ~~[attorney general or the district~~
13 ~~attorney in the county of jurisdiction]~~ public accountability
14 board; or

15 (2) a person whose written request has been
16 denied.

17 B. A district court may issue a writ of mandamus or
18 order an injunction or other appropriate remedy to enforce the
19 provisions of the Inspection of Public Records Act.

20 C. The exhaustion of administrative remedies shall
21 not be required prior to bringing any action to enforce the
22 procedures of the Inspection of Public Records Act.

23 D. The court shall award damages, costs and
24 reasonable ~~[attorneys']~~ attorney fees to any person whose
25 written request has been denied and who is successful in a

1 court action to enforce the provisions of the Inspection of
2 Public Records Act."

3 SECTION 44. Section 34-10-2.1 NMSA 1978 (being Laws 1977,
4 Chapter 289, Section 1) is amended to read:

5 "34-10-2.1. JUDICIAL STANDARDS COMMISSION--DUTIES--
6 SUBPOENA POWER.--

7 A. Pursuant to the judicial standards commission's
8 authority granted by Article 6, Section 32 of the constitution
9 of New Mexico, any justice, judge or magistrate of any court
10 may be disciplined or removed for willful misconduct in office,
11 persistent failure or inability to perform the judge's duties
12 or habitual intemperance, or may be retired for a disability
13 that seriously interferes with the performance of the
14 justice's, judge's or magistrate's duties and that is, or is
15 likely to become, of a permanent character. The judicial
16 standards commission is granted the same authority to regulate
17 the conduct and character of board members of the public
18 accountability board, court-appointed commissioners, judicial
19 hearing officers, administrative law judges or special masters
20 while acting in a judicial capacity.

21 B. With respect to the officials listed in
22 Subsection A of this section, the judicial standards commission
23 shall:

24 (1) investigate all charges, complaints and
25 allegations as to willful misconduct in office, persistent

1 failure or inability to perform [~~a judge's~~] official duties or
2 habitual intemperance, [~~of any justice, judge or magistrate of~~
3 ~~any court, and when~~] if the commission deems necessary, and
4 hold a hearing on the charges, complaints or allegations
5 concerning the discipline or removal of [~~such judicial officer~~]
6 the official;

7 (2) investigate and, if the commission deems
8 necessary, hold hearings on any charge, complaint or allegation
9 that [~~a justice, judge or magistrate~~] an official listed in
10 Subsection A of this section has suffered a disability that is
11 seriously interfering with the performance of [~~his~~] the
12 official's duties [~~which~~] and that is, or is likely to become,
13 of a permanent character;

14 (3) if the commission deems it necessary or
15 convenient, appoint three masters, who are justices or judges
16 of courts of record, to hear and take evidence in any matter
17 arising under Paragraph (1) or (2) of this subsection who shall
18 report their findings to the commission; and

19 (4) after a hearing deemed necessary pursuant
20 to Paragraph (2) of this subsection or after considering the
21 record and the findings and report of the masters, if the
22 commission finds good cause, [~~it shall~~] recommend to the
23 supreme court the discipline, removal or retirement of the
24 [~~justice, judge or magistrate~~] official.

25 [~~B.~~] C. In any investigation or hearing held under

1 the provisions of this section, the commission [~~shall have the~~
2 ~~power to~~] may administer oaths and, with the concurrence of a
3 majority of the members of the commission, [~~it may~~] petition a
4 district court to subpoena witnesses, compel their attendance
5 and examine them under oath or affirmation and require the
6 production of any books, records, documents or other evidence
7 it may deem relevant or material to an investigation upon a
8 showing of probable cause."

9 SECTION 45. TEMPORARY PROVISION--PUBLIC ACCOUNTABILITY
10 BOARD--INITIAL APPOINTMENTS.--

11 A. The initial appointments to the public
12 accountability board shall be:

13 (1) four board members whose terms shall expire
14 on June 30, 2019, referred to as "class A" appointments for the
15 purposes of this section;

16 (2) four board members whose terms shall expire
17 on June 30, 2021, referred to as "class B" appointments for the
18 purposes of this section; and

19 (3) four board members whose terms shall expire
20 on June 30, 2023, referred to as "class C" appointments for the
21 purposes of this section.

22 B. No later than July 15, 2018, the executive
23 directors of the New Mexico association of counties, New Mexico
24 municipal league and New Mexico school boards association shall
25 meet to determine, either by agreement or by lot, which

1 organization shall recommend a person for appointment to class
2 A, class B and class C positions of the public accountability
3 board. The secretary of state shall appoint board members to
4 class A, class B and class C positions of the public
5 accountability board in accordance with the determination and
6 recommendations provided for in this subsection. Appointments
7 by the secretary of state shall be without regard to residency
8 within a particular area of the state and without regard to
9 political affiliation. No later than September 1, 2018, the
10 secretary of state shall file with the office of the secretary
11 of state a designation of appointment to the public
12 accountability board, along with a designation as to which
13 appointees shall serve in class A, class B and class C.

14 C. No later than September 1, 2018, the governor
15 shall file with the secretary of state a designation of
16 appointment of three persons to serve as board members of the
17 public accountability board, of which at least one member shall
18 be appointed from each congressional district. The governor
19 shall not appoint more than one board member from a qualified
20 political party in the state. In making the appointments, the
21 governor shall designate which board members shall serve in
22 class A, class B and class C positions.

23 D. No later than October 1, 2018, the president of
24 the state bar of New Mexico shall file with the secretary of
25 state a designation of appointment of three attorneys licensed

1 to practice law in this state to serve as board members of the
2 public accountability board, of which at least one member shall
3 be appointed from each congressional district. The president
4 shall make appointments such that no qualified political party
5 is represented by more than five board members on the board.
6 In making the appointments, the president shall designate which
7 board members shall serve in class A, class B and class C
8 positions.

9 E. No later than November 1, 2018, the chief justice
10 of the supreme court shall file with the secretary of state a
11 designation of appointment of three active or retired judges to
12 serve as board members of the public accountability board, of
13 which at least one member shall be appointed from each
14 congressional district. The chief justice shall make
15 appointments such that no qualified political party is
16 represented by more than five board members on the board. In
17 making the appointments, the chief justice shall designate
18 which board members shall serve in class A, class B and class C
19 positions.

20 F. Except as provided in this section, to qualify for
21 appointment to the public accountability board, a person:

22 (1) shall:

23 (a) be a resident of New Mexico for at least
24 four years;

25 (b) not have changed qualified political

1 party affiliation as shown on the person's voter registration
2 for at least two years prior to appointment;

3 (c) if appointed by the dean of the
4 university of New Mexico school of law, be an attorney licensed
5 to practice law in this state; and

6 (d) if appointed by the chief justice of the
7 supreme court, be an active or retired judge; and

8 (2) shall not:

9 (a) seek or hold an office in a qualified
10 political party;

11 (b) seek or hold an elective public office
12 or an appointed public position; or

13 (c) be a state employee, government
14 contractor or lobbyist.

15 G. Before entering upon the duties of the office of
16 public accountability board member, each member shall take the
17 oath of office as provided in Article 20, Section 1 of the
18 constitution of New Mexico and shall file that oath of office
19 with the secretary of state.

20 H. A public accountability board member who does not
21 qualify or fails to meet the requirements of Subsection F or G
22 of this section is deemed to have resigned from the board.

23 I. The public accountability board shall:

24 (1) convene its first meeting no sooner than
25 December 1, 2018;

.204365.5

1 (2) establish a budget for the board; and

2 (3) appoint an executive director of the board.

3 J. Until the public accountability board establishes
4 a website, and no later than October 1, 2019, the secretary of
5 state shall provide information regarding appointments to the
6 public accountability board, notices of board meetings and such
7 other information as requested by the public accountability
8 board.

9 SECTION 46. TEMPORARY PROVISION--COMPILER'S
10 INSTRUCTION.--The New Mexico compilation commission shall
11 rename Chapter 2, Article 15 NMSA 1978 "Legislative Ethics
12 Committee".

13 SECTION 47. DELAYED REPEAL.--Section 45 of this act is
14 repealed effective October 1, 2019.

15 SECTION 48. REPEAL.--Sections 2-15-1 through 2-15-6,
16 2-15-10 and 10-16-14 NMSA 1978 (being Laws 1993, Chapter 46,
17 Sections 46 through 51 and 55 and Laws 1967, Chapter 306,
18 Section 14, as amended) are repealed.

19 SECTION 49. APPLICABILITY.--The provisions of the Public
20 Accountability Act apply to conduct that occurs on or after
21 January 1, 2019.

22 SECTION 50. EFFECTIVE DATE.--

23 A. The effective date of the provisions of Section 20
24 of this act is July 1, 2017.

25 B. The effective date of the provisions of Sections

.204365.5

1 44 and 45 of this act is July 1, 2018.

2 C. The effective date of the provisions of Sections 1
3 through 19, 21 through 43, 48 and 49 of this act is July 1,
4 2019.

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