

1 AN ACT

2 RELATING TO THE INSURANCE NOMINATING COMMITTEE; AMENDING
3 CERTAIN PROVISIONS REGARDING THE COMMITTEE AND SUPERINTENDENT
4 OF INSURANCE; PROVIDING THAT THE OFFICE OF SUPERINTENDENT OF
5 INSURANCE WILL ADMINISTRATIVELY SUPPORT THE INSURANCE
6 NOMINATING COMMITTEE; MAKING THE INSURANCE NOMINATING
7 COMMITTEE AND ITS MEMBERS SUBJECT TO THE PROVISIONS OF
8 CERTAIN LAWS.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 SECTION 1. Section 10-16A-3 NMSA 1978 (being Laws 1993,
12 Chapter 46, Section 41, as amended) is amended to read:

13 "10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES
14 AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON
15 BALLOT OR APPOINTMENT.--

16 A. At the time of filing a declaration of
17 candidacy or nominating petition, a candidate for legislative
18 or statewide office shall file with the proper filing
19 officer, as defined in Section 1-8-25 NMSA 1978, a financial
20 disclosure statement on a prescribed form. In addition, each
21 year thereafter during the month of January, a legislator and
22 a person holding a statewide office shall file with the
23 proper filing officer a financial disclosure statement. If
24 the proper filing officer is not the secretary of state, the
25 proper filing officer shall forward a copy of the financial

1 disclosure statement to the secretary of state within
2 seventy-two hours.

3 B. A state agency head, an official whose
4 appointment to a board or commission is subject to
5 confirmation by the senate or a member of the insurance
6 nominating committee shall file with the secretary of state a
7 financial disclosure statement within thirty days of
8 appointment and during the month of January every year
9 thereafter that the person holds public office.

10 C. The financial disclosure statement shall
11 include for any person identified in Subsection A or B of
12 this section and the person's spouse the following
13 information for the prior calendar year:

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

20 (2) all sources of gross income of more than
21 five thousand dollars (\$5,000) to each person covered in the
22 disclosure statement, identified by general category
23 descriptions that disclose the nature of the income source,
24 in the following broad categories: law practice or
25 consulting operation or similar business, finance and

1 banking, farming and ranching, medicine and health care,
2 insurance (as a business and not as payment on an insurance
3 claim), oil and gas, transportation, utilities, general stock
4 market holdings, bonds, government, education, manufacturing,
5 real estate, consumer goods sales with a general description
6 of the consumer goods and the category "other", with
7 direction that the income source be similarly described. In
8 describing a law practice, consulting operation or similar
9 business of the person or spouse, the major areas of
10 specialization or income sources shall be described, and if
11 the spouse or a person in the reporting person's or spouse's
12 law firm, consulting operation or similar business is or was
13 during the reporting calendar year or the prior calendar year
14 a registered lobbyist under the Lobbyist Regulation Act, the
15 names and addresses of all clients represented for lobbying
16 purposes during those two years shall be disclosed;

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

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

25 (5) all memberships held by the reporting

1 individual and the individual's spouse on boards of
2 for-profit businesses in New Mexico;

3 (6) all New Mexico professional licenses
4 held;

5 (7) each state agency that was sold goods or
6 services in excess of five thousand dollars (\$5,000) during
7 the prior calendar year by a person covered in the disclosure
8 statement;

9 (8) each state agency, other than a court,
10 before which a person covered in the disclosure statement
11 represented or assisted clients in the course of the person's
12 employment during the prior calendar year; and

13 (9) a general category that allows the
14 person filing the disclosure statement to provide whatever
15 other financial interest or additional information the person
16 believes should be noted to describe potential areas of
17 interest that should be disclosed.

18 D. A complete financial disclosure statement shall
19 be filed every year. The secretary of state shall mail each
20 elected official required to file a financial disclosure
21 statement a copy of any statement the person filed the
22 previous year.

23 E. The financial disclosure statements filed
24 pursuant to this section are public records open to public
25 inspection during regular office hours and shall be retained

1 by the state for five years from the date of filing.

2 F. A person who files a financial disclosure
3 statement may file an amended statement at any time to
4 reflect significant changed circumstances that occurred since
5 the last statement was filed.

6 G. A candidate for a legislative or statewide
7 office who fails or refuses to file a financial disclosure
8 statement required by this section before the final date for
9 the withdrawal of candidates provided for in the Election
10 Code shall not have the candidate's name printed on the
11 election ballot.

12 H. For a state agency head, an official whose
13 appointment to a board or commission is subject to
14 confirmation by the senate or a member of the insurance
15 nominating committee, the filing of the financial disclosure
16 statement required by this section is a condition of entering
17 upon and continuing in state employment or holding an
18 appointed position."

19 SECTION 2. Section 41-4-3 NMSA 1978 (being Laws 1976,
20 Chapter 58, Section 3, as amended) is amended to read:

21 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

22 A. "board" means the risk management advisory
23 board;

24 B. "governmental entity" means the state or any
25 local public body as defined in Subsections C and H of this

1 section;

2 C. "local public body" means all political
3 subdivisions of the state and their agencies,
4 instrumentalities and institutions and all water and natural
5 gas associations organized pursuant to Chapter 3, Article 28
6 NMSA 1978;

7 D. "law enforcement officer" means a full-time
8 salaried public employee of a governmental entity, or a
9 certified part-time salaried police officer employed by a
10 governmental entity, whose principal duties under law are to
11 hold in custody any person accused of a criminal offense, to
12 maintain public order or to make arrests for crimes, or
13 members of the national guard when called to active duty by
14 the governor;

15 E. "maintenance" does not include:

16 (1) conduct involved in the issuance of a
17 permit, driver's license or other official authorization to
18 use the roads or highways of the state in a particular
19 manner; or

20 (2) an activity or event relating to a
21 public building or public housing project that was not
22 foreseeable;

23 F. "public employee" means an officer, employee or
24 servant of a governmental entity, excluding independent
25 contractors except for individuals defined in Paragraphs (7),

1 (8), (10), (14) and (17) of this subsection, or of a
2 corporation organized pursuant to the Educational Assistance
3 Act, the Small Business Investment Act or the Mortgage
4 Finance Authority Act or a licensed health care provider, who
5 has no medical liability insurance, providing voluntary
6 services as defined in Paragraph (16) of this subsection and
7 including:

8 (1) elected or appointed officials;

9 (2) law enforcement officers;

10 (3) persons acting on behalf or in service
11 of a governmental entity in any official capacity, whether
12 with or without compensation;

13 (4) licensed foster parents providing care
14 for children in the custody of the human services department,
15 corrections department or department of health, but not
16 including foster parents certified by a licensed child
17 placement agency;

18 (5) members of state or local selection
19 panels established pursuant to the Adult Community
20 Corrections Act;

21 (6) members of state or local selection
22 panels established pursuant to the Juvenile Community
23 Corrections Act;

24 (7) licensed medical, psychological or
25 dental arts practitioners providing services to the

1 corrections department pursuant to contract;

2 (8) members of the board of directors of the
3 New Mexico medical insurance pool;

4 (9) individuals who are members of medical
5 review boards, committees or panels established by the
6 educational retirement board or the retirement board of the
7 public employees retirement association;

8 (10) licensed medical, psychological or
9 dental arts practitioners providing services to the children,
10 youth and families department pursuant to contract;

11 (11) members of the board of directors of
12 the New Mexico educational assistance foundation;

13 (12) members of the board of directors of
14 the New Mexico student loan guarantee corporation;

15 (13) members of the New Mexico mortgage
16 finance authority;

17 (14) volunteers, employees and board members
18 of court-appointed special advocate programs;

19 (15) members of the board of directors of
20 the small business investment corporation;

21 (16) health care providers licensed in
22 New Mexico who render voluntary health care services without
23 compensation in accordance with rules promulgated by the
24 secretary of health. The rules shall include requirements
25 for the types of locations at which the services are

1 rendered, the allowed scope of practice and measures to
2 ensure quality of care;

3 (17) an individual while participating in
4 the state's adaptive driving program and only while using a
5 special-use state vehicle for evaluation and training
6 purposes in that program;

7 (18) the staff and members of the board of
8 directors of the New Mexico health insurance exchange
9 established pursuant to the New Mexico Health Insurance
10 Exchange Act; and

11 (19) members of the insurance nominating
12 committee;

13 G. "scope of duty" means performing any duties
14 that a public employee is requested, required or authorized
15 to perform by the governmental entity, regardless of the time
16 and place of performance; and

17 H. "state" or "state agency" means the state of
18 New Mexico or any of its branches, agencies, departments,
19 boards, instrumentalities or institutions."

20 SECTION 3. Section 59A-2-2 NMSA 1978 (being Laws 1984,
21 Chapter 127, Section 20, as amended) is amended to read:

22 "59A-2-2. SUPERINTENDENT--APPOINTMENT--TERM--
23 COMPENSATION--REMOVAL.--

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

1 insurance.

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

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

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

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

23 SECTION 4. Section 59A-2-2.1 NMSA 1978 (being Laws
24 2013, Chapter 74, Section 15) is amended to read:

25 "59A-2-2.1. INSURANCE NOMINATING COMMITTEE--DUTIES--

1 ADMINISTRATIVE ATTACHMENT.--

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

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

6 (a) two members who shall represent the
7 interests of the insurance industry;

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

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

17 (2) four members who are selected by the
18 governor as follows:

19 (a) two members who shall represent the
20 interests of the insurance industry;

21 (b) two members who shall represent the
22 interests of insurance consumers and who have experience
23 advocating on behalf of consumers or the public interest on
24 insurance issues. These consumer members shall not be
25 employed by or on behalf of or have a contract with an

1 employer that is regulated by the office of superintendent of
2 insurance; and

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

5 (3) a ninth member who shall be chair of the
6 committee and who shall be selected by a majority of the
7 other eight members; provided that the member shall:

8 (a) not be a candidate for the position
9 of superintendent of insurance; and

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

18 B. A vacancy on the committee shall be filled by
19 the original appointing authority for the remainder of the
20 term.

21 C. A committee member shall:

22 (1) be a resident of New Mexico;

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

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

4 D. The committee is subject to the Inspection of
5 Public Records Act and the Open Meetings Act. Individual
6 members of the committee are subject to the Governmental
7 Conduct Act and the Financial Disclosure Act.

8 E. The committee shall convene within ninety days
9 prior to the date on which the term of a superintendent ends
10 and shall appoint a superintendent within sixty days of
11 convening.

12 F. Upon the occurrence of a vacancy in the
13 superintendent position, the committee shall convene within
14 thirty days of the date of the vacancy and shall appoint a
15 successor to fill the remainder of the superintendent's term
16 within sixty days of convening.

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

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

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

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

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

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

13 (2) required by law."

14 SECTION 5. Section 59A-2-3 NMSA 1978 (being Laws 1984,
15 Chapter 127, Section 21, as amended) is amended to read:

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

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

20 B. be bonded as provided in the Surety Bond Act;

21 C. not have a direct financial interest in an
22 insurer, insurance agency or insurance transaction except as
23 a policyholder or a claimant under a policy or as an owner of
24 less than one percent of the shares of an insurer that is a
25 publicly traded corporation; and

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D. not have a spouse who:

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

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