

1 SENATE BILL 72

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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9  
10 AN ACT

11 RELATING TO PUBLIC ACCOUNTABILITY; ENACTING THE PUBLIC  
12 ACCOUNTABILITY ACT; CREATING THE PUBLIC ACCOUNTABILITY BOARD;  
13 PROVIDING FOR AN EXECUTIVE DIRECTOR; REQUIRING THE DEVELOPMENT  
14 OF A PROPOSED CODE OF PUBLIC ACCOUNTABILITY; PROVIDING FOR THE  
15 ISSUANCE OF BOARD ADVISORY OPINIONS; REQUIRING PUBLICATION OF  
16 CERTAIN REPORTS; TRANSFERRING CERTAIN ACCOUNTABILITY AND  
17 ENFORCEMENT FUNCTIONS TO THE BOARD; PROVIDING FOR THE FILING,  
18 INVESTIGATION AND ADJUDICATION OF COMPLAINTS RELATED TO PUBLIC  
19 ACCOUNTABILITY; PROVIDING FOR CONFIDENTIALITY OF CERTAIN  
20 RECORDS; PROVIDING FOR PENALTIES COLLECTED PURSUANT TO THE  
21 CAMPAIGN REPORTING ACT TO BE DEPOSITED IN THE PUBLIC ELECTION  
22 FUND; REVISING THE TIME PERIOD IN WHICH LEGISLATION MAY BE  
23 INTRODUCED AND FILED; REVISING EXCLUSIONS FROM THE DEFINITION  
24 OF "LOBBYIST" IN THE LOBBYIST REGULATION ACT; PROVIDING FOR A  
25 PERMANENT LEGISLATIVE ETHICS COMMITTEE; EXPANDING THE SCOPE OF

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1 THE JUDICIAL STANDARDS COMMISSION'S DUTIES; AMENDING, REPEALING  
2 AND ENACTING SECTIONS OF THE NMSA 1978.

3  
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
6 through 13 of this act may be cited as the "Public  
7 Accountability Act".

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

10 A. "adjunct agency" means an agency, board,  
11 commission, office or other instrumentality, not assigned to an  
12 elected constitutional officer, that is excluded from any  
13 direct or administrative attachment to a department of state  
14 government and that retains policymaking and administrative  
15 autonomy separate from any other agency of state government;

16 B. "board" means the public accountability board;

17 C. "breach" means an action that is a violation of  
18 any of the acts provided in Section 6 of the Public  
19 Accountability Act;

20 D. "complainant" means a person who files a  
21 complaint with the board;

22 E. "complaint" means a formal written assertion of  
23 a breach filed with the board in accordance with the Public  
24 Accountability Act;

25 F. "director" means the executive director of the

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1 board;

2 G. "government contractor" means a person who has a  
3 contract with a public body or who has submitted a bid for a  
4 contract with a public body;

5 H. "instrumentality of the state" means the New  
6 Mexico exposition center authority, New Mexico finance  
7 authority, New Mexico industrial and agricultural finance  
8 authority, New Mexico lottery authority, New Mexico mortgage  
9 finance authority, New Mexico renewable energy transmission  
10 authority, New Mexico state fair and water quality control  
11 commission;

12 I. "lobbyist" means "lobbyist", as that term is  
13 defined in the Lobbyist Regulation Act;

14 J. "public body" means a department, commission,  
15 council, board, committee or agency of the executive branch of  
16 government of the state; a state educational institution; a  
17 state institution; a political subdivision of the state; or an  
18 instrumentality of the state;

19 K. "public employee" means a person employed by a  
20 public body;

21 L. "public officer" means a person elected or  
22 appointed to an office of the executive branch of government of  
23 the state; a person elected or appointed to a position with a  
24 public body; a person elected to a public office of a political  
25 subdivision of the state; or a member of a governing body of a

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1 charter school;

2 M. "qualified political party" means a political  
3 party that has been qualified in accordance with the provisions  
4 of the Election Code;

5 N. "respondent" means a person whose conduct or  
6 alleged breach is the subject of a complaint; and

7 O. "retired judge" means a person who has  
8 previously served as a judge; who has been retained pursuant to  
9 the provisions of Article 6, Section 33 of the constitution of  
10 New Mexico; who remains an active member of the state bar; and  
11 who is qualified to serve again as a judge pursuant to the laws  
12 of the state.

13 SECTION 3. [NEW MATERIAL] PUBLIC ACCOUNTABILITY BOARD  
14 CREATED--MEMBERSHIP--TERMS--REMOVAL.--

15 A. The "public accountability board" is created as  
16 an adjunct agency under the direction of twelve board members,  
17 appointed as follows:

18 (1) three members appointed by the secretary  
19 of state:

20 (a) one member upon the recommendation  
21 of the New Mexico municipal league;

22 (b) one member upon the recommendation  
23 of the New Mexico association of counties; and

24 (c) one member upon the recommendation  
25 of the New Mexico school boards association;

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1 (2) three members appointed by majority vote  
2 of all members of the board of commissioners of the state bar  
3 of New Mexico, of which at least one member shall be appointed  
4 from each congressional district;

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

8 (4) three members appointed by the chief  
9 justice of the supreme court, of which at least one member  
10 shall be appointed from each congressional district.

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

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

16 D. Appointments shall be made as follows:

17 (1) by the third Tuesday in May of each odd-  
18 numbered year:

19 (a) one board member shall be appointed  
20 by the secretary of state upon the recommendation of the New  
21 Mexico municipal league, the New Mexico association of counties  
22 or the New Mexico school boards association on a rotating  
23 basis; and

24 (b) one board member shall be appointed  
25 by the board of commissioners of the state bar of New Mexico;

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1 (2) by the second Tuesday in June of each odd-  
2 numbered year, one board member shall be appointed by the  
3 governor; and

4 (3) by the last business day in June of each  
5 odd-numbered year, one board member shall be appointed by the  
6 chief justice of the supreme court.

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

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

21 G. The board shall elect a chair and a vice chair  
22 at the first regular meeting following July 1 of each odd-  
23 numbered year. The chair and vice chair shall not be of the  
24 same qualified political party and shall not have been  
25 appointed by the same appointing authority. The board may

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1 elect other officers as necessary.

2 H. Seven board members constitute a quorum for the  
3 transaction of business. The board shall not take action  
4 unless at least seven members concur.

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

13 SECTION 4. [NEW MATERIAL] BOARD MEMBERS--QUALIFICATIONS--  
14 LIMITATIONS.--

15 A. To qualify for appointment to the board, a  
16 person shall:

17 (1) be a resident of New Mexico for at least  
18 four years;

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

22 (3) if appointed by the board of commissioners  
23 of the state bar of New Mexico, be an attorney licensed to  
24 practice law in this state; and

25 (4) if appointed by the chief justice of the

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1 supreme court, be a retired judge.

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

7 C. A board member shall not:

8 (1) seek or hold an office or act as a leader  
9 in a political organization or a qualified political party;

10 (2) seek or hold an elective public office or  
11 an appointed public position;

12 (3) be a public employee, government  
13 contractor or lobbyist;

14 (4) be employed or contracted by a political  
15 committee or a person in that person's capacity as a candidate  
16 for public office;

17 (5) publicly endorse or publicly oppose a  
18 candidate for public office or a ballot issue unrelated to the  
19 administration of justice or the legal system;

20 (6) make speeches on behalf of a political  
21 organization; or

22 (7) solicit funds for, pay an assessment to or  
23 make a contribution to a political organization or candidate.

24 D. A board member who seeks or holds an office or  
25 position or is employed as prohibited in Subsection C of this

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1 section is deemed to have resigned from the board.

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

3 A. The board shall:

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

6 (2) receive and investigate complaints;

7 (3) designate a complaint review committee of  
8 the board;

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

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

14 (6) promulgate rules necessary to implement  
15 and administer the provisions of the Public Accountability Act  
16 and the applicable compliance provisions of the acts listed in  
17 Section 6 of the Public Accountability Act;

18 (7) compile, index, maintain and provide  
19 public and online access to all advisory opinions and reports  
20 required to be made public pursuant to the Public  
21 Accountability Act;

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

25 (9) draft a proposed code of public

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1 accountability and submit the proposed code to each elected  
2 public officer and public body for adoption;

3 (10) appoint an executive director;

4 (11) contract for professional services as  
5 necessary to carry out duties;

6 (12) have the authority to accept federal  
7 funds and other public or private grants to perform duties  
8 consistent with the Public Accountability Act; and

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

16 B. The board is limited in its authority to those  
17 powers granted by the Public Accountability Act or expressly  
18 granted in another applicable statute. In carrying out its  
19 responsibilities pursuant to the Public Accountability Act, the  
20 board may:

21 (1) sue and be sued;

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

24 (3) designate a campaign finance committee of  
25 the board to resolve matters related to violations of the

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1 Campaign Reporting Act; and

2 (4) as necessary, designate such other  
3 committees of the board to make recommendations for action to  
4 the board.

5 SECTION 6. [NEW MATERIAL] BOARD JURISDICTION--COMPLIANCE  
6 PROVISIONS.--

7 A. The board shall enforce the applicable civil  
8 compliance provisions of the:

- 9 (1) Campaign Reporting Act;
- 10 (2) Financial Disclosure Act;
- 11 (3) Gift Act;
- 12 (4) Governmental Conduct Act;
- 13 (5) Inspection of Public Records Act;
- 14 (6) Lobbyist Regulation Act;
- 15 (7) Open Meetings Act;
- 16 (8) Procurement Code;
- 17 (9) Public Accountability Act;
- 18 (10) School District Campaign Reporting Act;
- 19 (11) Voter Action Act; and
- 20 (12) Article 9, Section 14 of the constitution  
21 of New Mexico.

22 B. Except where a local accountability board or its  
23 equivalent with civil enforcement jurisdiction exists, the  
24 board shall also enforce the applicable civil compliance  
25 provisions of any local ordinances that regulate the matters

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1 regulated by the laws listed in Subsection A of this section.  
2 The board may exercise concurrent jurisdiction with a local  
3 accountability board or its equivalent as provided for in any  
4 local ordinance. As used in this subsection, "local ordinance"  
5 includes any rule, ordinance, resolution or other instrument  
6 containing the force of law that was adopted by a political  
7 subdivision of the state, including a home rule municipality  
8 and an incorporated or urban county.

9 C. The board shall file any court action to enforce  
10 the civil compliance provisions of an act listed in Subsection  
11 A of this section in the district court of the county in which  
12 the defendant resides.

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

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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 through an action  
4 by the board, the director 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:

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

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

6           F. The director shall not:

7                   (1) seek or hold an office in a qualified  
8 political party; or

9                   (2) seek or hold an elected public office or  
10 an appointed public position.

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

14           SECTION 8. [NEW MATERIAL] BOARD MEMBER RECUSAL--  
15 DISQUALIFICATION.--

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

20           B. If the propriety of a board member's  
21 participation in a particular matter is questioned on the  
22 grounds that the member has a conflict of interest and if the  
23 member refuses to recuse from participation in the matter, the  
24 board may disqualify that member from participation in the  
25 relevant board proceeding with concurrence of at least nine

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1 members.

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

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

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

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

21 A. The board may issue advisory opinions on matters  
22 related to the laws listed in Section 6 of the Public  
23 Accountability Act. Advisory opinions shall:

- 24 (1) be requested in writing;  
25 (2) present a question regarding whether the

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1 requester's contemplated future conduct would violate any of  
2 the acts listed in Section 6 of the Public Accountability Act;

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

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

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

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

20 SECTION 10. [NEW MATERIAL] COMPLAINTS--JURISDICTION--  
21 INVESTIGATIONS--SUBPOENAS.--

22 A. A complaint alleging a breach of the acts listed  
23 in Section 6 of the Public Accountability Act may be filed with  
24 the board by any person other than the director, a board member  
25 or a person employed by or in a contractual relationship with

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1 the board.

2 B. The complainant shall set forth in detail the  
3 specific allegations against the respondent and the facts that  
4 support the allegations. The complainant shall submit any  
5 available evidence that supports the complaint, including  
6 documents, records, names of witnesses and other evidence. The  
7 complaint shall be in writing, signed and sworn by the  
8 complainant and notarized.

9 C. Failure to satisfy a nonsubstantive requirement  
10 for filing a complaint does not invalidate the complaint.

11 D. The board shall not accept or consider a  
12 complaint unless the complaint is filed within two years from  
13 the last date on which the alleged conduct or breach occurred  
14 or from the last date on which a reasonable person would have  
15 discovered the facts upon which the complaint is based.

16 E. When a complaint is filed, the director shall  
17 present the complaint to the complaint review committee and  
18 make recommendations whether the conduct alleged in the  
19 complaint is within the civil enforcement jurisdiction of the  
20 board and warrants investigation.

21 F. The complaint review committee shall dismiss a  
22 complaint that is frivolous, unfounded or outside the board's  
23 civil enforcement jurisdiction within ten days of receipt of  
24 the complaint.

25 G. If the complaint review committee determines

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1 that a complaint is under the jurisdiction of another entity,  
2 the committee shall, within ten days of receipt of the  
3 complaint by the board, forward the complaint to the relevant  
4 entity. A complaint shall be deemed to have been filed timely,  
5 for the purpose of the relevant entity's deadlines, if the  
6 complaint is prepared in compliance with the requirements in  
7 this section and is filed with the board.

8 H. The complaint review committee or the board may  
9 dismiss a complaint upon a finding that the complaint was filed  
10 for the primary purpose of publicity.

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

20 J. 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 K. 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

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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 and to request that the district court issue  
14 subpoenas requiring the attendance of witnesses or the  
15 production of books, records, documents or other evidence  
16 reasonably related to the complaint. A public employee or  
17 public official who is a respondent shall be entitled to  
18 representation by the risk management division of the general  
19 services department, a local risk management entity or other  
20 appropriate insurance carrier.

21 L. Within sixty days of the receipt of a complaint  
22 under investigation, the complaint review committee shall  
23 either:

24 (1) provide a copy of the complaint to the  
25 respondent and notify the respondent that the respondent shall

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1 file with the board a response to the complaint within thirty  
2 days of the respondent's receipt of the notice, unless the  
3 director approves an extension of time for filing the response;  
4 or

5 (2) dismiss the complaint and notify the  
6 complainant of the dismissal and notify the respondent of the  
7 specific allegations in and the dismissal of the complaint.

8 M. If a respondent fails to file a response to a  
9 complaint within thirty days or the extended time period  
10 approved by the director, the complaint review committee shall  
11 refer the complaint along with the complaint review committee's  
12 investigation and recommendation to the board for its  
13 consideration and decision.

14 N. Within thirty days of the filing of a  
15 respondent's response, the complaint review committee shall,  
16 having considered the response, either:

17 (1) dismiss the complaint and notify the  
18 complainant and the respondent of the dismissal; or

19 (2) refer the complaint, response,  
20 investigation and recommendation to the board for its  
21 consideration and decision and notify the complainant and the  
22 respondent that the complaint was referred to the board.

23 O. No later than July 1 of each even-numbered year,  
24 the chief justice of the supreme court shall appoint an active  
25 or pro tempore district judge to consider the issuance and

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1 enforcement of subpoenas provided for in this section. The  
2 appointment shall end on June 30 of the next even-numbered year  
3 after appointment.

4 SECTION 11. [NEW MATERIAL] PRE-HEARING DISPOSITION--BOARD  
5 HEARINGS--FINDINGS AND CONCLUSIONS--DISCLOSURE--APPEAL OF  
6 DISMISSAL.--

7 A. If a complaint is referred to the board by the  
8 complaint review committee, the director shall provide the  
9 board at its next meeting a report of the committee's  
10 investigation of any complaints referred to the board. Based  
11 on the director's report, the board shall:

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

14 (2) set a public hearing, as soon as  
15 practicable, and notify the complainant of the date, time and  
16 place of the hearing at which the board will consider and  
17 adjudicate the matter.

18 B. At any time before a hearing provided for in  
19 Subsection A of this section, the board may approve a pre-  
20 hearing disposition of a complaint agreed to by the director  
21 and the respondent.

22 C. The hearing provided for in Subsection A of this  
23 section shall be pursuant to the rules of evidence that govern  
24 proceedings in the state's courts. One of the board members  
25 appointed by the chief justice of the supreme court shall

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1       preside over the hearing and is authorized to administer oaths.  
2       The respondent has the right to be represented by counsel. The  
3       parties may present evidence and testimony, compel the presence  
4       of witnesses and examine and cross-examine witnesses.

5               D. After the hearing, if the board finds by clear  
6       and convincing evidence that the respondent's conduct  
7       constituted a breach, the board shall, within thirty days of  
8       the hearing, issue a written report that shall include findings  
9       of fact and conclusions of law. The written report may include  
10      a public reprimand or censure regarding the respondent's breach  
11      or recommendations for disciplinary action against the  
12      respondent, and if the respondent's conduct constituted a  
13      willful breach, the board shall impose any fines provided for  
14      by law.

15              E. The board shall publicly disclose a report  
16      issued pursuant to Subsection D of this section. If the report  
17      concerns a willful breach, the board shall provide the report,  
18      along with all evidence collected during the board's  
19      investigation, to the respondent and the:

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

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

25                      (3) appropriate public body if the respondent

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1 is a public employee;

2 (4) public body with which the respondent has  
3 a government contract if the respondent is a government  
4 contractor; or

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

7 F. After the hearing, if the board does not find by  
8 clear and convincing evidence that the respondent's conduct  
9 constituted a breach, the board shall dismiss the complaint and  
10 provide notice of the dismissal to the complainant and the  
11 respondent within thirty days after the hearing.

12 G. The board shall promulgate rules establishing  
13 procedures for hearings.

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

15 A. The final disposition of a complaint that was  
16 filed with the board shall be a public record. Except as  
17 otherwise provided in the acts listed in Section 6 of the  
18 Public Accountability Act, all complaints, reports, files,  
19 records and communications collected or generated by the board,  
20 complaint review committee or director that pertain to alleged  
21 breaches shall not be disclosed by the board or any board  
22 member, agent or employee of the board and are not subject to  
23 the Inspection of Public Records Act, unless:

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

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

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

6 B. Information and reports containing information  
7 made confidential by law or exempt from the Inspection of  
8 Public Records Act shall not be disclosed by the board or its  
9 director, staff or contractors.

10 SECTION 13. [NEW MATERIAL] BOARD--INITIAL APPOINTMENTS.--

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

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

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

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

21 B. No later than July 15, 2018, the New Mexico  
22 association of counties, New Mexico municipal league and New  
23 Mexico school boards association shall meet to determine,  
24 either by agreement or by lot, which organization shall  
25 recommend a person for appointment to class A, class B and

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

12 C. No later than September 1, 2018, the board of  
13 commissioners of the state bar of New Mexico shall file with  
14 the secretary of state a designation of appointment of three  
15 attorneys licensed to practice law in this state to serve as  
16 members of the board, of which at least one member shall be  
17 appointed from each congressional district. The board of  
18 commissioners shall make appointments such that no qualified  
19 political party is represented by more than five members on the  
20 board. In making the appointments, the board of commissioners  
21 shall designate which board members shall serve in class A,  
22 class B and class C positions.

23 D. No later than October 1, 2018, the governor  
24 shall file with the secretary of state a designation of  
25 appointment of three persons to serve as members of the board,

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1 of which at least one member shall be appointed from each  
2 congressional district. The governor shall not appoint more  
3 than one board member from a qualified political party in the  
4 state. In making the appointments, the governor shall  
5 designate which board members shall serve in class A, class B  
6 and class C positions.

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

17 F. Except as provided in this section, to qualify  
18 for appointment to the board, a person:

19 (1) shall:

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

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

25 (c) if appointed by the board of

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

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

5 (2) shall not:

6 (a) seek or hold an office in a  
7 qualified political party;

8 (b) seek or hold an elective public  
9 office or an appointed public position; or

10 (c) be a state employee, government  
11 contractor or lobbyist.

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

17 H. A board member who does not qualify or fails to  
18 meet the requirements of Subsection F or G of this section is  
19 deemed to have resigned from the board.

20 I. The board shall:

21 (1) convene its first meeting no sooner than  
22 December 1, 2018;

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

24 (3) appoint an executive director of the  
25 board.

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

6 SECTION 14. Section 1-19-32 NMSA 1978 (being Laws 1979,  
7 Chapter 360, Section 8, as amended) is amended to read:

8 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

9 A. Each of the following documents is a public  
10 record open to public inspection during regular office hours in  
11 the office in which the document was filed or from which the  
12 document was issued:

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

14 (2) a report of expenditures and  
15 contributions;

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

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

20 (5) [~~an arbitration decision issued by an~~  
21 ~~arbitration panel and filed with the secretary of state~~] a  
22 decision issued by a hearing officer and filed with the public  
23 accountability board.

24 B. Each public record described in Subsection A of  
25 this section shall be retained by the state for five years and

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1 may be destroyed five years after the date of filing unless a  
2 legal action or prosecution is pending that requires the  
3 preservation of the public record.

4 C. The secretary of state shall provide for  
5 electronic access to reports of expenditures and contributions  
6 and statements of [~~exception~~] no activity submitted  
7 electronically by reporting individuals. Electronic access  
8 shall include access via the internet and shall be in an easily  
9 searchable format."

10 SECTION 15. Section 1-19-32.1 NMSA 1978 (being Laws 1981,  
11 Chapter 331, Section 9, as amended) is amended to read:

12 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF  
13 REPORTS.--

14 A. The [~~secretary of state~~] public accountability  
15 board shall conduct a thorough examination of at least ten  
16 percent of all reports filed during a year by reporting  
17 individuals, selected at random at least forty days after the  
18 general election and ten days after the April reports are filed  
19 in a non-election year, to determine compliance with the  
20 provisions of the Campaign Reporting Act. The examination may  
21 include an investigation of any discrepancies, including a  
22 cross-reference to reports filed by any other reporting  
23 individual. A reporting individual shall be notified in  
24 writing if a discrepancy is found in the report filed and shall  
25 be permitted to file a written explanation for the discrepancy

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1 within ten [~~working~~] days of the date of the notice. The  
2 notice, penalty and [~~arbitration~~] independent hearing officer  
3 provisions set forth in Section 1-19-34.4 NMSA 1978 shall apply  
4 to examinations conducted under this section.

5 B. After the date stated in the notice of final  
6 action for submission of a written explanation, the [~~secretary~~  
7 ~~of state~~] public accountability board shall prepare an annual  
8 report of any unresolved discrepancies found after examination  
9 of the random sample provided for in Subsection A of this  
10 section. [~~A copy of this report shall be transmitted to the~~  
11 ~~attorney general for enforcement pursuant to the provisions of~~  
12 ~~Section 1-19-36 NMSA 1978.~~] This report is a public record open  
13 to public inspection and subject to the retention and  
14 destruction provisions set forth in Section 1-19-32 NMSA 1978."

15 SECTION 16. Section 1-19-34.4 NMSA 1978 (being Laws 1993,  
16 Chapter 46, Section 15, as amended) is amended to read:

17 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--  
18 INVESTIGATIONS--~~[BINDING ARBITRATION]~~ HEARINGS--REFERRALS FOR  
19 ENFORCEMENT.--

20 A. The secretary of state shall advise and seek to  
21 educate all persons required to perform duties under the  
22 Campaign Reporting Act of those duties. This includes advising  
23 all known reporting individuals at least annually of that act's  
24 deadlines for submitting required reports and statements of  
25 [~~exception~~] no activity. The [~~secretary of state in~~

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1 ~~consultation with the attorney general]~~ public accountability  
2 board shall issue advisory opinions, when requested in writing  
3 to do so, on matters concerning that act. All prescribed forms  
4 prepared shall be clear and easy to complete.

5 B. ~~[The secretary of state may initiate~~  
6 ~~investigations to determine whether any provision of the~~  
7 ~~Campaign Reporting Act has been violated. Additionally]~~ Any  
8 person who believes that a provision of ~~[that]~~ the Campaign  
9 Reporting Act has been violated may file a written complaint  
10 with the ~~[secretary of state]~~ public accountability board any  
11 time prior to ninety days after an election, except that no  
12 complaints from the public may be filed within eight days prior  
13 to an election. The ~~[secretary of state]~~ board shall adopt  
14 procedures for issuing advisory opinions and processing  
15 complaints and notifications of violations.

16 C. The ~~[secretary of state]~~ public accountability  
17 board shall at all times seek to ensure voluntary compliance  
18 with the provisions of the Campaign Reporting Act. If the  
19 ~~[secretary of state]~~ board determines that a provision of that  
20 act for which a penalty may be imposed has been violated, the  
21 ~~[secretary of state]~~ board shall by written notice set forth  
22 the violation and the fine imposed and inform the reporting  
23 individual that ~~[he]~~ the individual has ten ~~[working]~~ days from  
24 the date of the letter to correct the matter and to provide a  
25 written explanation, under penalty of perjury, stating any

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1 reason why the violation occurred. If a timely explanation is  
2 filed and the ~~[secretary of state]~~ board determines that good  
3 cause exists to waive the fine imposed, the ~~[secretary of~~  
4 ~~state]~~ board may by a written notice of final action partially  
5 or fully waive any fine imposed for any late, incomplete or  
6 false report or statement of ~~[exception]~~ no activity. A  
7 written notice of final action shall be sent by certified mail.

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

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1 ~~be established by the department of finance and administration.~~

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

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

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

4                   SECTION 17. Section 1-19-34.6 NMSA 1978 (being Laws 1995,  
5 Chapter 153, Section 19) is amended to read:

6                   "1-19-34.6. CIVIL PENALTIES.--

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

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

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

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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 Campaign  
5 Reporting Act other than that specified in Subsection ~~[B]~~ A of  
6 this section. Relief may include a permanent or temporary  
7 injunction, a restraining order or any other appropriate order,  
8 including an order for a civil penalty of fifty dollars  
9 (\$50.00) for each violation not to exceed five thousand dollars  
10 (\$5,000)."

11           SECTION 18. Section 1-19-34.7 NMSA 1978 (being Laws 2009,  
12 Chapter 68, Section 1) is amended to read:

13           "1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES--  
14 POLITICAL COMMITTEES.--

15           A. The following contributions by the following  
16 persons are prohibited:

17                   (1) from a person, not including a political  
18 committee, to a:

19                           (a) candidate for nonstatewide office,  
20 including the candidate's campaign committee, in an amount that  
21 will cause that person's total contributions to the candidate  
22 to exceed two thousand three hundred dollars (\$2,300) during  
23 the primary election or two thousand three hundred dollars  
24 (\$2,300) during the general election;

25                           (b) candidate for statewide office,

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1 including the candidate's campaign committee, in an amount that  
2 will cause that person's total contributions to the candidate  
3 to exceed five thousand dollars (\$5,000) during the primary  
4 election or five thousand dollars (\$5,000) during the general  
5 election; or

6 (c) political committee in an amount  
7 that will cause that person's total contributions to the  
8 political committee to exceed five thousand dollars (\$5,000)  
9 during a primary election or five thousand dollars (\$5,000)  
10 during a general election; and

11 (2) from a political committee to:

12 (a) a candidate for office, including  
13 the candidate's campaign committee, in an amount that will  
14 cause the political committee's total contributions to the  
15 candidate to exceed five thousand dollars (\$5,000) during the  
16 primary election or five thousand dollars (\$5,000) during the  
17 general election; or

18 (b) another political committee in an  
19 amount that will cause that political committee's total  
20 contributions to the political committee to exceed five  
21 thousand dollars (\$5,000) during a primary election or five  
22 thousand dollars (\$5,000) during a general election.

23 B. All contributions made by a person to a  
24 candidate, either directly or indirectly, including  
25 contributions that are in any way earmarked or otherwise

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1 directed through another person to a candidate, shall be  
2 treated as contributions from the person to that candidate.

3 C. A person, including a political committee, shall  
4 not knowingly accept or solicit a contribution, directly or  
5 indirectly, including a contribution earmarked or otherwise  
6 directed or coordinated through another person, including a  
7 political committee, that violates the contribution limits  
8 provided for in this section.

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

20 E. All contributions in excess of the limits  
21 imposed by the provisions of this section shall be deposited in  
22 the public election fund upon a finding by the [~~secretary of~~  
23 ~~state~~] public accountability board that the contribution limits  
24 have been exceeded.

25 F. The limitation on contributions to a candidate

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1 provided for in Subsection A of this section shall not apply to  
2 a candidate's own contribution from the candidate's personal  
3 funds to the candidate's own campaign.

4 G. For the purposes of this section:

5 (1) "primary election" means the period  
6 beginning on the day after the general election for the  
7 applicable office and ending on the day of the primary for that  
8 office; and

9 (2) "general election" means the period  
10 beginning on the day after the primary for the applicable  
11 office and ending on the day of the general election for that  
12 office."

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

15 "1-19-35. REPORTS AND STATEMENTS--LATE FILING  
16 PENALTY--FAILURE TO FILE.--

17 A. Except for the report required to be filed and  
18 delivered the Thursday prior to the election and any  
19 supplemental report, as required in Paragraph (5) of Subsection  
20 B of Section 1-19-29 NMSA 1978, that is due prior to the  
21 election, and subject to the provisions of Section 1-19-34.4  
22 NMSA 1978, if a statement of no activity or a report of  
23 expenditures and contributions contains false or incomplete  
24 information or is filed after any deadline imposed by the  
25 Campaign Reporting Act, the responsible reporting individual or

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1 political committee, in addition to any other penalties or  
2 remedies prescribed by the Election Code, shall be liable for  
3 and shall pay to the [~~secretary of state~~] public accountability  
4 board fifty dollars (\$50.00) per day for each regular working  
5 day after the time required by the Campaign Reporting Act for  
6 the filing of statements of no activity or reports of  
7 expenditures and contributions until the complete or true  
8 statement or report is filed, up to a maximum of five thousand  
9 dollars (\$5,000).

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

20 C. If a reporting individual fails to file or files  
21 a late supplemental report of expenditures and contributions as  
22 required in Paragraph (5) of Subsection B of Section 1-19-29  
23 NMSA 1978, the reporting individual or political committee  
24 shall be liable for and pay to the [~~secretary of state~~] public  
25 accountability board a penalty equal to the amount of each

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1 contribution received or pledged after the Tuesday before the  
2 election that was not timely filed.

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

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

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

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

22 F. The public accountability board shall maintain  
23 on its website a list of persons who failed or refused to file  
24 a report of expenditures and contributions or a statement of no  
25 activity or to pay a penalty imposed by the board and have not

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1 remedied the failure or refusal.

2           [F-] G. Any candidate who loses an election and who  
3 failed or refused to file a report of expenditures and  
4 contributions or a statement of no activity or to pay a penalty  
5 imposed by the [~~secretary of state~~] public accountability board  
6 as required by the Campaign Reporting Act shall not be, in  
7 addition to any other penalties provided by law, permitted to  
8 file a declaration of candidacy or nominating petition for any  
9 future election until the candidate satisfies all reporting  
10 requirements of that act and pays all penalties owed."

11           **SECTION 20.** Section 1-19A-16 NMSA 1978 (being Laws 2003,  
12 Chapter 14, Section 16) is amended to read:

13           "1-19A-16. APPEALS.--The procedure for challenging a  
14 certification decision by the secretary is as follows:

15           A. a person aggrieved by a certification decision  
16 or a decision regarding the distribution of matching funds may  
17 appeal to the [~~secretary~~] public accountability board within  
18 three days of the decision. The appeal shall be in writing and  
19 shall set forth the reasons for appeal;

20           B. within five days after an appeal is properly  
21 made, and after due notice is given to the parties in dispute,  
22 the [~~secretary~~] public accountability board shall hold a  
23 hearing [~~whereby~~] in which:

24                   (1) the appellant has the burden of providing  
25 evidence to demonstrate that the secretary's decision was

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1 improper; and

2 (2) the [~~secretary~~] public accountability  
3 board shall rule on the appeal within three days after the  
4 completion of the hearing;

5 C. the parties in dispute may appeal the decision  
6 of the [~~secretary~~] public accountability board by commencing an  
7 action in district court; and

8 D. certified candidates whose certification is  
9 revoked on appeal shall return to the secretary any unspent  
10 money distributed from the fund. If the secretary or court  
11 finds that an appeal was made frivolously or to result in delay  
12 or hardship, the secretary or court may sanction the moving  
13 party by requiring the party to pay costs of the administrative  
14 hearing, the court hearing and the opposing parties."

15 SECTION 21. Section 1-19A-17 NMSA 1978 (being Laws 2003,  
16 Chapter 14, Section 17) is amended to read:

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

18 A. In addition to other penalties that may be  
19 applicable, a person who violates a provision of the Voter  
20 Action Act is subject to a civil penalty of up to ten thousand  
21 dollars (\$10,000) per violation. In addition to a fine, a  
22 certified candidate found in violation of that act may be  
23 required to return to the fund all amounts distributed to the  
24 candidate from the fund. If the [~~secretary~~] public  
25 accountability board makes a determination that a violation of

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1 that act has occurred, the [~~secretary~~] public accountability  
2 board shall impose a fine or transmit the finding to the  
3 attorney general for prosecution. In determining whether a  
4 certified candidate is in violation of the expenditure limits  
5 of that act, the [~~secretary~~] public accountability board may  
6 consider as a mitigating factor any circumstances out of the  
7 candidate's control.

8 B. A person who willfully or knowingly violates the  
9 provisions of the Voter Action Act or rules of the secretary or  
10 knowingly makes a false statement in a report required by that  
11 act is guilty of a fourth degree felony and, if [~~he~~] the person  
12 is a certified candidate, shall return to the fund all money  
13 distributed to that candidate."

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

16 "1-22A-8. CIVIL PENALTIES.--

17 [~~A. If the secretary of state reasonably believes~~  
18 ~~that a person committed, or is about to commit, a violation of~~  
19 ~~the School District Campaign Reporting Act, the secretary of~~  
20 ~~state shall refer the matter to the attorney general or a~~  
21 ~~district attorney for enforcement.~~

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

23 A. The public accountability board may institute a  
24 civil action in district court for any violation of the School  
25 District Campaign Reporting Act or to prevent a violation of

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1 that act that involves an unlawful solicitation or the making  
2 or acceptance of an unlawful contribution. An action for  
3 relief may include a permanent or temporary injunction, a  
4 restraining order or any other appropriate order, including a  
5 civil penalty of two hundred fifty dollars (\$250) for each  
6 violation not to exceed five thousand dollars (\$5,000), and  
7 forfeiture of any contribution received as a result of an  
8 unlawful solicitation or unlawful contribution. Each unlawful  
9 solicitation and each unlawful contribution made or accepted  
10 shall be deemed a separate violation of the Campaign Reporting  
11 Act.

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

13 B. The public accountability board may institute a  
14 civil action in district court if a violation has occurred or  
15 to prevent a violation of any provision of the School District  
16 Campaign Reporting Act other than that specified in Subsection  
17 [B] A of this section. Relief may include a permanent or  
18 temporary injunction, a restraining order or any other  
19 appropriate order, including an order for a civil penalty of  
20 fifty dollars (\$50.00) for each violation not to exceed five  
21 thousand dollars (\$5,000)."

22 **SECTION 23.** Section 2-6-1 NMSA 1978 (being Laws 1961,  
23 Chapter 2, Section 1, as amended) is amended to read:

24 "2-6-1. LIMIT ON THE TIME WITHIN WHICH BILLS MAY BE  
25 INTRODUCED.--

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1           A. A bill shall not be accepted for filing until  
2 after the beginning of the prohibited period for soliciting  
3 campaign contributions provided for in Section 1-19-34.1 NMSA  
4 1978.

5           B. No bill shall be introduced at any regular  
6 session of the legislature subsequent to the thirtieth  
7 legislative day in sessions held in the odd-numbered years or  
8 subsequent to the fifteenth legislative day in sessions held in  
9 the even-numbered years. The limitation provided in this  
10 [~~section~~] subsection does not apply to the general  
11 appropriation bill, bills to provide for the current expenses  
12 of the government and such bills as may be referred to the  
13 legislature by the governor by special message specifically  
14 setting forth the emergency or necessity requiring such  
15 legislation."

16           SECTION 24. Section 2-11-2 NMSA 1978 (being Laws 1977,  
17 Chapter 261, Section 2, as amended) is amended to read:

18           "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation  
19 Act:

20           A. "compensation" means any money, per diem,  
21 salary, fee or portion thereof or the equivalent in services  
22 rendered or in-kind contributions received or to be received in  
23 return for lobbying services performed or to be performed;

24           B. "expenditure" means a payment, transfer or  
25 distribution or obligation or promise to pay, transfer or

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1 distribute any money or other thing of value but does not  
2 include a lobbyist's own personal living expenses and the  
3 expenses incidental to establishing and maintaining an office  
4 in connection with lobbying activities or compensation paid to  
5 a lobbyist by a lobbyist's employer;

6 C. "legislative committee" means a committee  
7 created by the legislature, including interim and standing  
8 committees of the legislature;

9 D. "lobbying" means attempting to influence:

10 (1) a decision related to any matter to be  
11 considered or being considered by the legislative branch of  
12 state government or any legislative committee or any  
13 legislative matter requiring action by the governor or awaiting  
14 action by the governor; or

15 (2) an official action;

16 E. "lobbyist" means any individual who is  
17 compensated for the specific purpose of lobbying; is designated  
18 by an interest group or organization to represent it on a  
19 substantial or regular basis for the purpose of lobbying; or in  
20 the course of [~~his~~] employment, is engaged in lobbying on a  
21 substantial or regular basis. "Lobbyist" does not include:

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

25 (2) [~~any~~] an elected or appointed officer of

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1 the state or its political subdivisions or an Indian nation,  
2 tribe or pueblo acting in [~~his~~] the officer's official  
3 capacity;

4 (3) an employee of the state or its political  
5 subdivisions, specifically designated by an elected or  
6 appointed officer of the state or its political subdivision,  
7 who appears before a legislative committee or in a rulemaking  
8 proceeding only to explain the effect of legislation or a rule  
9 on [~~his~~] the designated employee's agency or political  
10 subdivision; provided that the elected or appointed officer of  
11 the state or its political subdivision keeps for public  
12 inspection and files with the [~~secretary of state~~] public  
13 accountability board such designation;

14 (4) [~~any~~] a designated member of the staff of  
15 an elected state official; provided that the elected state  
16 official keeps for public inspection and files with the  
17 [~~secretary of state~~] public accountability board such  
18 designation;

19 (5) a member of the legislature, the staff of  
20 [~~any~~] a member of the legislature or the staff of [~~any~~] a  
21 legislative committee when addressing legislation;

22 (6) [~~any~~] a witness called by a legislative  
23 committee or administrative agency to appear before that  
24 legislative committee or agency in connection with legislation  
25 or an official action;

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

6 (8) the executive director of a nonprofit or  
7 an intergovernmental or trade association organized under the  
8 provisions of Section 501(c) of the Internal Revenue Code of  
9 1986 who provides oral or written public testimony in  
10 connection with a legislative committee or in a rulemaking  
11 proceeding and whose name and organization have been clearly  
12 and publicly identified; or

13 ~~[(8)]~~ (9) a publisher, owner or employee of  
14 the print media, radio or television, while gathering or  
15 disseminating news or editorial comment to the general public  
16 in the ordinary course of business;

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

20 G. "official action" means the action or nonaction  
21 of a state official or state agency, board or commission acting  
22 in a rulemaking proceeding;

23 H. "person" means an individual, partnership,  
24 association, committee, federal, state or local governmental  
25 entity or agency, however constituted, public or private

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1 corporation or any other organization or group of persons who  
2 are voluntarily acting in concert;

3 I. "political contribution" means a gift,  
4 subscription, loan, advance or deposit of [~~any~~] money or other  
5 thing of value, including the estimated value of an in-kind  
6 contribution, that is made or received for the purpose of  
7 influencing a primary, general or statewide election, including  
8 a constitutional or other question submitted to the voters, or  
9 for the purpose of paying a debt incurred in any such election;

10 J. "prescribed form" means a form prepared and  
11 prescribed by the secretary of state;

12 K. "rulemaking proceeding" means a formal process  
13 conducted by a state agency, board or commission for the  
14 purpose of adopting a rule, regulation, standard, policy or  
15 other requirement of general applicability and does not include  
16 adjudicatory proceedings; and

17 L. "state public officer" means a person holding a  
18 statewide office provided for in the constitution of New  
19 Mexico."

20 SECTION 25. Section 2-11-8.2 NMSA 1978 (being Laws 1977,  
21 Chapter 261, Section 4, as amended) is amended to read:

22 "2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--  
23 BINDING ARBITRATION--CIVIL PENALTIES.--

24 A. The secretary of state shall advise and seek to  
25 educate all persons required to perform duties pursuant to the

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1 Lobbyist Regulation Act of those duties. This includes  
2 advising all registered lobbyists at least annually of the  
3 Lobbyist Regulation Act's deadlines for submitting required  
4 reports. The ~~[secretary of state, in consultation with the~~  
5 ~~attorney general]~~ public accountability board shall issue  
6 advisory opinions, when requested to do so in writing, on  
7 matters concerning the Lobbyist Regulation Act. All prescribed  
8 forms prepared shall be clear and easy to complete.

9 B. The ~~[secretary of state]~~ public accountability  
10 board may conduct thorough examinations of reports and initiate  
11 investigations to determine whether the Lobbyist Regulation Act  
12 has been violated. Additionally, any person who believes that  
13 a provision of that act has been violated may file a written  
14 complaint with the ~~[secretary of state]~~ board. The ~~[secretary~~  
15 ~~of state]~~ board shall adopt procedures for issuing advisory  
16 opinions, processing complaints and notifications of  
17 violations.

18 C. The ~~[secretary of state]~~ public accountability  
19 board shall at all times seek to ensure voluntary compliance  
20 with the provisions of the Lobbyist Regulation Act. If the  
21 ~~[secretary of state]~~ board determines that a provision of that  
22 act for which a penalty may be imposed has been violated, the  
23 ~~[secretary of state]~~ board shall by written notice set forth  
24 the violation and the fine imposed and inform the person that  
25 ~~[he]~~ the person has ten ~~[working]~~ days to provide a written

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1 explanation, under penalty of perjury, stating any reason the  
2 violation occurred. If a timely explanation is filed and the  
3 ~~[secretary of state]~~ board determines that good cause exists,  
4 the ~~[secretary of state]~~ board may by a written notice of final  
5 action partially or fully waive any fine imposed. A written  
6 notice of final action shall be sent by certified mail.

7 D. If the person charged disputes the ~~[secretary of~~  
8 ~~state's]~~ public accountability board's determination, including  
9 an advisory opinion, the person charged may request ~~[binding~~  
10 ~~arbitration]~~ a hearing within ten ~~[working]~~ days of the date of  
11 the final action. The hearing shall be conducted by an  
12 independent hearing officer appointed pursuant to the  
13 Administrative Hearings Office Act. Any penalty imposed shall  
14 be due and payable within ten ~~[working]~~ days of the date of the  
15 notice of final action. ~~[No additional penalty shall accrue~~  
16 ~~pending issuance of the arbitration decision. Fines paid~~  
17 ~~pursuant to a notice of final action that are subsequently~~  
18 ~~reduced or dismissed shall be reimbursed with interest within~~  
19 ~~ten working days after the filing of the arbitration decision~~  
20 ~~with the secretary of state. Interest on the reduced or~~  
21 ~~dismissed portion of the fine shall be the same as the rate of~~  
22 ~~interest earned by the secretary of state's escrow account to~~  
23 ~~be established by the department of finance and administration.~~

24 E. ~~An arbitration hearing shall be conducted by a~~  
25 ~~single arbitrator selected within ten days by the person~~

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1 against whom the penalty has been imposed from a list of five  
2 arbitrators provided by the secretary of state. Neither the  
3 secretary of state nor a person subject to the Lobbyist  
4 Regulation Act, Campaign Reporting Act or Financial Disclosure  
5 Act may serve as an arbitrator. Arbitrators shall be  
6 considered to be independent contractors, not public officers  
7 or employees, and shall not be paid per diem and mileage.

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

22 G.—Any] F. A person who files a report after the  
23 deadline imposed by the Lobbyist Regulation Act, or [any] a  
24 person who files a false or incomplete report, shall be liable  
25 for and shall pay to the [secretary of state] public election

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1 fund fifty dollars (\$50.00) per day for each regular working  
2 day after the time required for the filing of the report until  
3 the complete report is filed, up to a maximum of five thousand  
4 dollars (\$5,000).

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

8 SECTION 26. Section 2-15-7 NMSA 1978 (being Laws 1993,  
9 Chapter 46, Section 52) is amended to read:

10 "2-15-7. ~~[INTERIM]~~ LEGISLATIVE ETHICS COMMITTEE--  
11 CREATION--APPOINTMENT.--

12 A. ~~[An "interim]~~ The "legislative ethics  
13 committee", appointed by the New Mexico legislative council, is  
14 created as a permanent committee with authority to meet during  
15 the interim and the legislative session. Members of the New  
16 Mexico legislative council shall be allowed to serve on the  
17 ~~[interim]~~ legislative ethics committee.

18 B. All matters ~~[arising in the interim]~~ pertaining  
19 to legislative ethics shall be referred to ~~[this special~~  
20 ~~interim]~~ the legislative ethics committee.

21 C. The committee shall be appointed by the  
22 New Mexico legislative council so as to give the two major  
23 political parties in each house equal representation on the  
24 committee. In appointing the members to the committee, the New  
25 Mexico legislative council shall adopt the recommendations of

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1 the respective floor leaders of each house.

2 D. The legislative ethics committee shall include  
3 two nonvoting public members, one appointed by the speaker of  
4 the house of representatives with the agreement of the majority  
5 and minority leaders of the house of representatives and one  
6 appointed by the president pro tempore of the senate with the  
7 agreement of the majority and minority leaders of the senate.

8 [~~D.~~] E. The New Mexico legislative council shall  
9 name the [~~interim~~] legislative ethics committee at the  
10 beginning of each interim, but the committee shall convene [~~the~~  
11 ~~committee~~] only upon the receipt of a complaint, a request for  
12 an advisory opinion or a referral."

13 SECTION 27. Section 2-15-8 NMSA 1978 (being Laws 1993,  
14 Chapter 46, Section 53) is amended to read:

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

17 A. The [~~interim~~] legislative ethics committee is  
18 authorized to:

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

23 [~~B.~~] (2) investigate complaints from another  
24 member of the legislature or a member of the public alleging  
25 misconduct of a legislator;

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1                   [~~E.~~] (3) investigate referrals made to the  
2 [~~co-chairmen~~] co-chairs of the New Mexico legislative council  
3 from the public accountability board, the attorney general, the  
4 secretary of state or a district attorney;

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

7                   [~~E.~~] (5) make recommendations to the  
8 respective houses [~~by the end of the first full week of the~~  
9 ~~next convened regular session~~] regarding proposed sanctions for  
10 ethical misconduct.

11                   B. The legislative ethics committee shall issue an  
12 annual report no later than the first day of May of each year  
13 regarding its activities during the previous twelve months,  
14 including a listing of the number of complaints received, the  
15 disposition of the complaints that have been resolved and the  
16 advisory opinions issued.

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

19                   SECTION 28. Section 2-15-9 NMSA 1978 (being Laws 1993,  
20 Chapter 46, Section 54) is amended to read:

21                   "2-15-9. [~~INTERIM~~] LEGISLATIVE ETHICS COMMITTEE--  
22 PROCEDURES--CONFIDENTIALITY.--

23                   A. [~~Except as provided in this section~~] The  
24 New Mexico legislative council shall develop procedures to  
25 carry out the provisions of this section [~~in accordance with~~

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1 ~~the existing procedures in the house and senate rules].~~

2 B. A member of the [~~interim~~] legislative ethics  
3 committee [~~shall be~~] is ineligible to participate in any matter  
4 relating directly to that member's conduct. In any such case,  
5 a substitute member to the committee shall be appointed from  
6 the same house from the same political party by the appropriate  
7 appointing authority. A member may seek to be disqualified  
8 from any matter brought before the legislative ethics committee  
9 on the grounds that the member cannot render a fair and  
10 impartial decision. Disqualification [~~must~~] shall be approved  
11 by [~~a majority vote of the remaining members of the committee~~]  
12 the appropriate appointing authority. In any such case, a  
13 substitute member to the committee shall be appointed from the  
14 same political party as provided in this section.

15 C. The [~~interim~~] legislative ethics committee is  
16 authorized to issue advisory opinions on matters relating to  
17 ethical conduct [~~during the interim~~]. Any question relating to  
18 the interpretation and enforcement of ethical principles as  
19 applied to the legislature may be submitted in writing to the  
20 [~~New Mexico~~] director of the legislative council service by a  
21 legislator describing a real or hypothetical situation and  
22 requesting an advisory opinion establishing an appropriate  
23 standard of ethical conduct for that situation. The question  
24 shall be referred to the [~~joint interim~~] legislative ethics  
25 committee. The public members of the committee shall be

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1 allowed to participate in committee meetings related to  
2 advisory opinions.

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

5 (1) a legislator [~~or member of the public may~~]  
6 shall file with the director of the legislative council service  
7 a written, sworn, notarized complaint setting forth, with  
8 specificity, the facts alleged to constitute unethical conduct;  
9 and

10 (2) a member of the public shall file with the  
11 public accountability board a written, sworn, notarized  
12 complaint setting forth, with specificity, the facts alleged to  
13 constitute unethical conduct.

14 E. A complaint [~~shall be~~] filed with the [~~New~~  
15 ~~Mexico~~] director of the legislative council service shall be  
16 forwarded to the appropriate co-chairs of the legislative  
17 ethics committee. Upon receipt of [the] a complaint, the [co-  
18 ~~chairmen~~] co-chairs shall convene the [interim] legislative  
19 ethics committee. The public member appointed by the speaker  
20 of the house of representatives shall be allowed to participate  
21 in committee meetings related to a complaint about a member of  
22 the house of representatives and the public member appointed by  
23 the president pro tempore of the senate shall be allowed to  
24 participate in committee meetings related to a complaint about  
25 a member of the senate. The public members shall be allowed to

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1 participate in committee meetings that relate to all other  
2 matters.

3 [E-] F. The [~~interim~~] legislative ethics committee  
4 shall maintain rules of confidentiality unless the legislator  
5 against whom a complaint is filed waives the rules or any part  
6 of them in writing. The confidentiality rules shall include  
7 the following provisions:

8 (1) the complainant, the committee and its  
9 staff shall not publicly disclose any information relating to  
10 the filing or investigation of a complaint, including the  
11 identity of the complainant or respondent, until after a  
12 finding of probable cause has been made that a violation has  
13 occurred;

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

16 (3) no member of the committee or its staff  
17 may knowingly disclose any confidential information except as  
18 authorized by the committee."

19 SECTION 29. Section 2-15-11 NMSA 1978 (being Laws 1993,  
20 Chapter 46, Section 56) is amended to read:

21 "2-15-11. LEGISLATIVE ETHICS COMMITTEE--STAFF.--The staff  
22 for the [~~interim~~] legislative ethics committee shall be  
23 provided by the legislative council service, but the committee  
24 is authorized to hire such special counsel, arbitrators or  
25 independent hearing officers, or to request the appointment of

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1 an independent hearing officer, as provided for in the  
2 Administrative Hearings Office Act, as necessary to assist the  
3 [~~legislative ethics~~] committee when it is convened."

4 SECTION 30. Section 2-15-12 NMSA 1978 (being Laws 1993,  
5 Chapter 46, Section 57) is amended to read:

6 "2-15-12. [~~NEW MEXICO~~] LEGISLATIVE [~~COUNCIL~~] ETHICS  
7 COMMITTEE--BUDGET.--The New Mexico legislative council shall  
8 annually provide an amount sufficient to carry out the duties  
9 and mandate of the [~~interim~~] legislative ethics committee."

10 SECTION 31. Section 7-1B-6 NMSA 1978 (being Laws 2015,  
11 Chapter 73, Section 6) is amended to read:

12 "7-1B-6. HEARING OFFICER CODE OF CONDUCT--INDEPENDENCE.--

13 A. The chief hearing officer shall:

14 (1) adopt and promulgate a hearing officer  
15 code of conduct; and

16 (2) periodically evaluate each hearing  
17 officer's performance for competency, efficiency and  
18 professional demeanor in [~~accord~~] accordance with relevant  
19 legal standards and the hearing officer code of conduct.

20 B. The chief hearing officer shall ensure that each  
21 hearing officer has decisional independence; however, the chief  
22 hearing officer may:

23 (1) consult with a hearing officer about a  
24 genuine question of law; and

25 (2) review with a hearing officer any issue on

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1 appeal addressed by a court of this state.

2 C. The administrative hearings office shall:

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

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

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

9 (4) conduct all adjudicatory hearings pursuant  
10 to the Motor Vehicle Code;

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

13 (6) conduct hearings related to decisions of  
14 the public accountability board;

15 [~~6~~] (7) make and preserve a complete record  
16 of all proceedings; and

17 [~~7~~] (8) maintain confidentiality regarding  
18 taxpayer information as required by the provisions of Section  
19 7-1-8 NMSA 1978.

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

23 (1) the rules of evidence that govern  
24 proceedings in the state's courts do not apply. The hearing  
25 officer may require reasonable substantiation of statements or

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1 records tendered, the accuracy or truth of which is in  
2 reasonable doubt, to rule on the admissibility of evidence. A  
3 taxpayer or the taxation and revenue department may request a  
4 written ruling on a contested question of evidence in a matter  
5 in which the taxpayer has filed a written protest and for which  
6 that protest is pending. The administrative hearings office  
7 shall issue a copy of its written ruling to the taxation and  
8 revenue department at the time the ruling is issued to the  
9 taxpayer;

10 (2) the Rules of Civil Procedure for the  
11 District Courts do not apply. The hearing officer shall  
12 conduct a hearing to allow the ample and fair presentation of  
13 complaints and defenses. The hearing officer shall hear  
14 arguments, permit discovery, entertain and dispose of motions,  
15 require written expositions of the case as the circumstances  
16 justify and render a decision in accordance with the law and  
17 the evidence presented and admitted. A taxpayer or the  
18 taxation and revenue department may request a written ruling on  
19 a contested question of procedure in a matter in which the  
20 taxpayer has filed a written protest and for which that protest  
21 is pending. The administrative hearings office shall issue a  
22 copy of its written ruling to the taxation and revenue  
23 department at the time the ruling is issued to the taxpayer;  
24 and

25 (3) the hearing officer may administer oaths

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1 and issue subpoenas for the attendance of witnesses and the  
2 production of relevant books and papers, and for hearings  
3 conducted for a license suspension pursuant to Section 66-5-30  
4 NMSA 1978, the hearing officer may require a reexamination of  
5 the licensee."

6 SECTION 32. Section 10-15-1 NMSA 1978 (being Laws 1974,  
7 Chapter 91, Section 1, as amended) is amended to read:

8 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN  
9 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

10 A. In recognition of the fact that a representative  
11 government is dependent upon an informed electorate, it is  
12 declared to be public policy of this state that all persons are  
13 entitled to the greatest possible information regarding the  
14 affairs of government and the official acts of those officers  
15 and employees who represent them. The formation of public  
16 policy or the conduct of business by vote shall not be  
17 conducted in closed meeting. All meetings of any public body  
18 except the legislature and the courts shall be public meetings,  
19 and all persons so desiring shall be permitted to attend and  
20 listen to the deliberations and proceedings. Reasonable  
21 efforts shall be made to accommodate the use of audio and video  
22 recording devices.

23 B. All meetings of a quorum of members of any  
24 board, commission, administrative adjudicatory body or other  
25 policymaking body of any state agency or any agency or

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1 authority of any county, municipality, district or political  
2 subdivision, held for the purpose of formulating public policy,  
3 including the development of personnel policy, rules,  
4 regulations or ordinances, discussing public business or taking  
5 any action within the authority of or the delegated authority  
6 of any board, commission or other policymaking body are  
7 declared to be public meetings open to the public at all times,  
8 except as otherwise provided in the constitution of New Mexico  
9 or the Open Meetings Act. No public meeting once convened that  
10 is otherwise required to be open pursuant to the Open Meetings  
11 Act shall be closed or dissolved into small groups or  
12 committees for the purpose of permitting the closing of the  
13 meeting.

14 C. If otherwise allowed by law or rule of the  
15 public body, a member of a public body may participate in a  
16 meeting of the public body by means of a conference telephone  
17 or other similar communications equipment when it is otherwise  
18 difficult or impossible for the member to attend the meeting in  
19 person; provided that each member participating by conference  
20 telephone can be identified when speaking, all participants are  
21 able to hear each other at the same time and members of the  
22 public attending the meeting are able to hear any member of the  
23 public body who speaks during the meeting.

24 D. Any meetings at which the discussion or adoption  
25 of any proposed resolution, rule, regulation or formal action

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1 occurs and at which a majority or quorum of the body is in  
2 attendance, and any closed meetings, shall be held only after  
3 reasonable notice to the public. The affected body shall  
4 determine at least annually in a public meeting what notice for  
5 a public meeting is reasonable when applied to that body. That  
6 notice shall include broadcast stations licensed by the federal  
7 communications commission and newspapers of general circulation  
8 that have provided a written request for such notice.

9 E. A public body may recess and reconvene a meeting  
10 to a day subsequent to that stated in the meeting notice if,  
11 prior to recessing, the public body specifies the date, time  
12 and place for continuation of the meeting and, immediately  
13 following the recessed meeting, posts notice of the date, time  
14 and place for the reconvened meeting on or near the door of the  
15 place where the original meeting was held and in at least one  
16 other location appropriate to provide public notice of the  
17 continuation of the meeting. Only matters appearing on the  
18 agenda of the original meeting may be discussed at the  
19 reconvened meeting.

20 F. Meeting notices shall include an agenda  
21 containing a list of specific items of business to be discussed  
22 or transacted at the meeting or information on how the public  
23 may obtain a copy of such an agenda. Except in the case of an  
24 emergency or in the case of a public body that ordinarily meets  
25 more frequently than once per week, at least seventy-two hours

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1 prior to the meeting, the agenda shall be available to the  
2 public and posted on the public body's [~~web site~~] website, if  
3 one is maintained. A public body that ordinarily meets more  
4 frequently than once per week shall post a draft agenda at  
5 least seventy-two hours prior to the meeting and a final agenda  
6 at least thirty-six hours prior to the meeting. Except for  
7 emergency matters, a public body shall take action only on  
8 items appearing on the agenda. For purposes of this  
9 subsection, "emergency" refers to unforeseen circumstances  
10 that, if not addressed immediately by the public body, will  
11 likely result in injury or damage to persons or property or  
12 substantial financial loss to the public body. Within ten days  
13 of taking action on an emergency matter, the public body shall  
14 report to the [~~attorney general's office~~] public accountability  
15 board the action taken and the circumstances creating the  
16 emergency; provided that the requirement to report to the  
17 [~~attorney general~~] public accountability board is waived upon  
18 the declaration of a state or national emergency.

19 G. The board, commission or other policymaking body  
20 shall keep written minutes of all its meetings. The minutes  
21 shall include at a minimum the date, time and place of the  
22 meeting, the names of members in attendance and those absent,  
23 the substance of the proposals considered and a record of any  
24 decisions and votes taken that show how each member voted. All  
25 minutes are open to public inspection. Draft minutes shall be

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1 prepared within ten working days after the meeting and shall be  
2 approved, amended or disapproved at the next meeting where a  
3 quorum is present. Minutes shall not become official until  
4 approved by the policymaking body.

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

7 (1) meetings pertaining to issuance,  
8 suspension, renewal or revocation of a license, except that a  
9 hearing at which evidence is offered or rebutted shall be open.  
10 All final actions on the issuance, suspension, renewal or  
11 revocation of a license shall be taken at an open meeting;

12 (2) limited personnel matters; provided that  
13 for purposes of the Open Meetings Act, "limited personnel  
14 matters" means the discussion of hiring, promotion, demotion,  
15 dismissal, assignment or resignation of or the investigation or  
16 consideration of complaints or charges against any individual  
17 public employee; provided further that this paragraph is not to  
18 be construed as to exempt final actions on personnel from being  
19 taken at open public meetings, nor does it preclude an  
20 aggrieved public employee from demanding a public hearing.  
21 Judicial candidates interviewed by any commission shall have  
22 the right to demand an open interview;

23 (3) deliberations by a public body in  
24 connection with an administrative adjudicatory proceeding. For  
25 purposes of this paragraph, "administrative adjudicatory

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1 proceeding" means a proceeding brought by or against a person  
2 before a public body in which individual legal rights, duties  
3 or privileges are required by law to be determined by the  
4 public body after an opportunity for a trial-type hearing.  
5 Except as otherwise provided in this section, the actual  
6 administrative adjudicatory proceeding at which evidence is  
7 offered or rebutted and any final action taken as a result of  
8 the proceeding shall occur in an open meeting;

9 (4) the discussion of personally identifiable  
10 information about any individual student, unless the student or  
11 the student's parent or guardian requests otherwise;

12 (5) meetings for the discussion of bargaining  
13 strategy preliminary to collective bargaining negotiations  
14 between the policymaking body and a bargaining unit  
15 representing the employees of that policymaking body and  
16 collective bargaining sessions at which the policymaking body  
17 and the representatives of the collective bargaining unit are  
18 present;

19 (6) that portion of meetings at which a  
20 decision concerning purchases in an amount exceeding two  
21 thousand five hundred dollars (\$2,500) that can be made only  
22 from one source is discussed and that portion of meetings at  
23 which the contents of competitive sealed proposals solicited  
24 pursuant to the Procurement Code are discussed during the  
25 contract negotiation process. The actual approval of purchase

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1 of the item or final action regarding the selection of a  
2 contractor shall be made in an open meeting;

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

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

9 (9) those portions of meetings of committees  
10 or boards of public hospitals where strategic and long-range  
11 business plans or trade secrets are discussed; ~~and~~

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

15 (11) except as provided in the Public  
16 Accountability Act, meetings of the public accountability board  
17 or its committees that relate to complaints or investigations.

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

20 (1) the closure, if made in an open meeting,  
21 shall be approved by a majority vote of a quorum of the  
22 policymaking body; the authority for the closure and the  
23 subject to be discussed shall be stated with reasonable  
24 specificity in the motion calling for the vote on a closed  
25 meeting; the vote shall be taken in an open meeting; and the

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1 vote of each individual member shall be recorded in the  
2 minutes. Only those subjects announced or voted upon prior to  
3 closure by the policymaking body may be discussed in a closed  
4 meeting; or

5 (2) if a closure is called for when the  
6 policymaking body is not in an open meeting, the closed meeting  
7 shall not be held until public notice, appropriate under the  
8 circumstances, stating the specific provision of the law  
9 authorizing the closed meeting and stating with reasonable  
10 specificity the subject to be discussed is given to the members  
11 and to the general public.

12 J. Following completion of any closed meeting, the  
13 minutes of the open meeting that was closed or the minutes of  
14 the next open meeting if the closed meeting was separately  
15 scheduled shall state that the matters discussed in the closed  
16 meeting were limited only to those specified in the motion for  
17 closure or in the notice of the separate closed meeting. This  
18 statement shall be approved by the public body under Subsection  
19 G of this section as part of the minutes."

20 **SECTION 33.** Section 10-15-3 NMSA 1978 (being Laws 1974,  
21 Chapter 91, Section 3, as amended) is amended to read:

22 "10-15-3. INVALID ACTIONS--STANDING.--

23 A. No resolution, rule, regulation, ordinance or  
24 action of any board, commission, committee or other  
25 policymaking body shall be valid unless taken or made at a

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1 meeting held in accordance with the requirements of Section  
2 10-15-1 NMSA 1978. Every resolution, rule, regulation,  
3 ordinance or action of any board, commission, committee or  
4 other policymaking body shall be presumed to have been taken or  
5 made at a meeting held in accordance with the requirements of  
6 Section 10-15-1 NMSA 1978.

7 B. Civil enforcement of all provisions of the Open  
8 Meetings Act shall be ~~[enforced]~~ by the ~~[attorney general or by~~  
9 ~~the district attorney in the county of jurisdiction]~~ public  
10 accountability board. However, nothing in that act shall  
11 prevent an individual from independently applying for  
12 enforcement through the district courts; provided that the  
13 individual first provides written notice of the claimed  
14 violation to the public body and that the public body has  
15 denied or not acted on the claim within fifteen days of  
16 receiving it. A public meeting held to address a claimed  
17 violation of the Open Meetings Act shall include a summary of  
18 comments made at the meeting at which the claimed violation  
19 occurred.

20 C. The district courts of this state shall have  
21 jurisdiction, upon the application of any person to enforce the  
22 purpose of the Open Meetings Act, by injunction, mandamus or  
23 other appropriate order. The court shall award costs and  
24 reasonable attorney fees to any person who is successful in  
25 bringing a court action to enforce the provisions of the Open

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1 Meetings Act. If the prevailing party in a legal action  
2 brought under this section is a public body defendant, it shall  
3 be awarded court costs. A public body defendant that prevails  
4 in a court action brought under this section shall be awarded  
5 its reasonable attorney fees from the plaintiff if the  
6 plaintiff brought the action without sufficient information and  
7 belief that good grounds supported it.

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

11 SECTION 34. Section 10-16-11 NMSA 1978 (being Laws 1967,  
12 Chapter 306, Section 11, as amended) is amended to read:

13 "10-16-11. CODES OF CONDUCT.--

14 A. [~~By January 1, 1994~~] Each elected statewide  
15 executive branch public officer shall adopt a general code of  
16 conduct for employees subject to [~~his~~] the officer's control.  
17 The New Mexico legislative council shall adopt a general code  
18 of conduct for all legislative branch employees. The general  
19 codes of conduct shall be based on the principles set forth in  
20 the Governmental Conduct Act.

21 B. Within thirty days after the general codes of  
22 conduct are adopted, they shall be given to and reviewed with  
23 all executive and legislative branch officers and employees.  
24 All new public officers and employees of the executive and  
25 legislative branches shall review the employees' general code

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1 of conduct prior to or at the time of being hired.

2 C. The head of every executive and legislative  
3 agency and institution of the state may draft a separate code  
4 of conduct for all public officers and employees in that agency  
5 or institution. The separate agency code of conduct shall  
6 prescribe standards, in addition to those set forth in the  
7 Governmental Conduct Act and the general codes of conduct for  
8 all executive and legislative branch public officers and  
9 employees, that are peculiar and appropriate to the function  
10 and purpose for which the agency or institution was created or  
11 exists. The separate codes, upon approval of the responsible  
12 executive branch public officer for executive branch public  
13 officers and employees or the New Mexico legislative council  
14 for legislative branch employees, govern the conduct of the  
15 public officers and employees of that agency or institution  
16 and, except for those public officers and employees removable  
17 only by impeachment, shall, if violated, constitute cause for  
18 dismissal, demotion or suspension. The head of each executive  
19 and legislative branch agency shall adopt ongoing education  
20 programs to advise public officers and employees about the  
21 codes of conduct. All codes shall be filed with the [~~secretary~~  
22 ~~of state~~] public accountability board and are open to public  
23 inspection.

24 D. Codes of conduct shall be reviewed at least once  
25 every four years. An amended code shall be filed as provided

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1 in Subsection C of this section.

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

5 SECTION 35. Section 10-16-13.1 NMSA 1978 (being Laws  
6 1993, Chapter 46, Section 35) is amended to read:

7 "10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

8 A. The secretary of state shall advise and seek to  
9 educate all persons required to perform duties under the  
10 Governmental Conduct Act of those duties. This includes  
11 advising all those persons at least annually of that act's  
12 ethical principles.

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

21 SECTION 36. Section 10-16-18 NMSA 1978 (being Laws 1995,  
22 Chapter 153, Section 23) is amended to read:

23 "10-16-18. ENFORCEMENT--CIVIL PENALTIES.--[A.] If the  
24 [~~secretary of state~~] public accountability board reasonably  
25 believes that a person committed, or is about to commit, a

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1 violation of the Governmental Conduct Act, the [~~secretary of~~  
2 ~~state~~] board shall [~~refer the matter to the attorney general or~~  
3 ~~a district attorney for enforcement.~~

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

12 SECTION 37. Section 10-16A-1 NMSA 1978 (being Laws 1993,  
13 Chapter 46, Section 39) is amended to read:

14 "10-16A-1. SHORT TITLE--FINANCIAL DISCLOSURE ACT.--  
15 [~~Sections 39 through 45 of this act~~] Chapter 10, Article 16A  
16 NMSA 1978 may be cited as the "Financial Disclosure Act"."

17 SECTION 38. Section 10-16A-5 NMSA 1978 (being Laws 1993,  
18 Chapter 46, Section 43) is amended to read:

19 "10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

20 A. The secretary of state shall advise and seek to  
21 educate all persons required to perform duties under the  
22 Financial Disclosure Act of those duties. This includes  
23 providing timely advance notice of the required financial  
24 disclosure statement and preparing forms that are clear and  
25 easy to complete.

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1           B. The [~~secretary of state~~] public accountability  
2 board shall seek first to ensure voluntary compliance with the  
3 provisions of the Financial Disclosure Act. A person who  
4 violates that act unintentionally or for good cause shall be  
5 given ten days' notice to correct the matter [~~before fines are~~  
6 ~~imposed. Referrals for civil enforcement of the Financial~~  
7 ~~Disclosure Act shall be pursued only after efforts to secure~~  
8 ~~voluntary compliance with that act have failed]."~~

9           SECTION 39. Section 10-16A-6 NMSA 1978 (being Laws 1993,  
10 Chapter 46, Section 44, as amended) is amended to read:

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

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

21           B. If the [~~secretary of state~~] public  
22 accountability board determines that a violation has occurred  
23 for which a penalty should be imposed, the [~~secretary of state~~]  
24 board shall so notify the person charged and impose the  
25 penalty. If the person charged disputes the [~~secretary of~~

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1 state's] board's determination, the person charged may request  
2 [~~binding arbitration.~~

3 G. ~~The arbitration decision shall be decided by a~~  
4 ~~single arbitrator selected within ten days by the person~~  
5 ~~against whom the penalty has been imposed from a list of five~~  
6 ~~arbitrators provided by the secretary of state. No arbitrator~~  
7 ~~may be a person subject to the Financial Disclosure Act,~~  
8 ~~Campaign Reporting Act or Lobbyist Regulation Act. Arbitrators~~  
9 ~~shall be considered to be independent contractors, not public~~  
10 ~~officers or employees, and shall not be paid per diem and~~  
11 ~~mileage] a hearing. The hearing shall be conducted by an~~  
12 ~~independent hearing officer appointed pursuant to the~~  
13 ~~Administrative Hearings Office Act.~~

14 [~~D.~~] C. The [~~arbitrator~~] hearing officer shall  
15 conduct the hearing within thirty days of the request and may  
16 take any action [the secretary of state is] authorized [to  
17 take] by the Financial Disclosure Act. The [arbitrator]  
18 hearing officer shall state the reasons for [~~his~~] the decision  
19 in a written document that shall be a public record. [~~The~~  
20 ~~decision shall be final and binding.~~] The decision shall be  
21 issued and filed with the board within thirty days of the  
22 conclusion of the hearing. [~~Unless otherwise provided for in~~  
23 ~~this section, or by rule or regulation adopted by the secretary~~  
24 ~~of state, the procedures for the arbitration shall be governed~~  
25 ~~by the Uniform Arbitration Act. No arbitrator shall be subject~~

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1 ~~to liability for actions taken pursuant to this section.~~

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

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

15 SECTION 40. Section 10-16A-8 NMSA 1978 (being Laws 1995,  
16 Chapter 153, Section 25) is amended to read:

17 "10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--~~[A.]~~ If the  
18 ~~[secretary of state]~~ public accountability board reasonably  
19 believes that a person committed, or is about to commit, a  
20 violation of the Financial Disclosure Act, the ~~[secretary of~~  
21 ~~state]~~ board shall ~~[refer the matter to the attorney general or~~  
22 ~~a district attorney for enforcement.~~

23 ~~B.—The attorney general or a district attorney may]~~  
24 institute a civil action in district court if a violation has  
25 occurred or to prevent a violation of ~~[any]~~ a provision of the

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1 Financial Disclosure Act. Relief may include a permanent or  
2 temporary injunction, a restraining order or any other  
3 appropriate order, including an order for a civil penalty of  
4 two hundred fifty dollars (\$250) for each violation not to  
5 exceed five thousand dollars (\$5,000)."

6 SECTION 41. Section 13-1-177 NMSA 1978 (being Laws 1984,  
7 Chapter 65, Section 150, as amended) is amended to read:

8 "13-1-177. AUTHORITY TO SUSPEND OR DEBAR.--

9 A. The [~~state purchasing agent or a central~~  
10 ~~purchasing office~~] public accountability board, after  
11 consultation with the using agency, may suspend a person from  
12 consideration for award of contracts if the [~~state purchasing~~  
13 ~~agent or central purchasing office~~] public accountability  
14 board, after reasonable investigation, finds that a person has  
15 engaged in conduct that constitutes cause for debarment  
16 pursuant to Section 13-1-178 NMSA 1978.

17 B. The term of a suspension pursuant to this  
18 section shall not exceed three months; however, if a person,  
19 including a bidder, offeror or contractor, has been charged  
20 with a criminal offense that would be a cause for debarment  
21 pursuant to Section 13-1-178 NMSA 1978, the suspension shall  
22 remain in effect until the criminal charge is resolved and the  
23 person is debarred or the reason for suspension no longer  
24 exists.

25 C. The [~~state purchasing agent or a central~~

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1 ~~purchasing office]~~ public accountability board, after  
2 reasonable notice to the person involved, shall have authority  
3 to ~~[recommend to the governing authority of a state agency or a~~  
4 ~~local public body the debarment of]~~ debar a person for cause  
5 from consideration for award of contracts, other than contracts  
6 for professional services. The debarment shall not be for a  
7 period of more than three years. The authority to debar shall  
8 be exercised by the ~~[governing authority of a state agency or a~~  
9 ~~local public body]~~ public accountability board in accordance  
10 with rules that shall provide for reasonable notice and a fair  
11 hearing prior to debarment.

12 D. As used in this section, the terms "person",  
13 "bidder", "offeror" and "contractor" include principals,  
14 officers, directors, owners, partners and managers of the  
15 person, bidder, offeror or contractor."

16 SECTION 42. Section 13-1-178 NMSA 1978 (being Laws 1984,  
17 Chapter 65, Section 151, as amended) is amended to read:

18 "13-1-178. CAUSES FOR DEBARMENT OR SUSPENSION--TIME  
19 LIMIT.--

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

23 (1) criminal conviction of a bidder, offeror  
24 or contractor for commission of a criminal offense related to  
25 obtaining unlawfully or attempting to obtain a public or

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1 private contract or subcontract, or related to the unlawful  
2 performance of such contract or subcontract;

3 (2) civil judgment against a bidder, offeror  
4 or contractor for a civil violation related to obtaining  
5 unlawfully or attempting to obtain a public or private contract  
6 or subcontract, or related to the unlawful performance of such  
7 contract or subcontract;

8 (3) conviction of a bidder, offeror or  
9 contractor under state or federal statutes related to  
10 embezzlement, theft, forgery, bribery, fraud, falsification or  
11 destruction of records, making false statements or receiving  
12 stolen property or for violation of federal or state tax laws;

13 (4) conviction of a bidder, offeror or  
14 contractor under state or federal antitrust statutes relating  
15 to the submission of offers;

16 (5) criminal conviction against a bidder,  
17 offeror or contractor for any other offense related to honesty,  
18 integrity or business ethics;

19 (6) civil judgment against a bidder, offeror  
20 or contractor for a civil violation related to honesty,  
21 integrity or business ethics;

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

24 (8) violation by a bidder, offeror or  
25 contractor of contract provisions, as set forth in this

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1 paragraph, of a character that is reasonably regarded by the  
2 [~~state purchasing agent or a central purchasing office~~] public  
3 accountability board to be so serious as to justify suspension  
4 or debarment action, including:

5 (a) willful failure to perform in  
6 accordance with one or more contracts; or

7 (b) a history of failure to perform or  
8 of unsatisfactory performance of one or more contracts;  
9 provided that this failure or unsatisfactory performance has  
10 occurred within a reasonable time preceding the decision to  
11 impose debarment; and provided further that failure to perform  
12 or unsatisfactory performance caused by acts beyond the control  
13 of the contractor shall not be considered to be a basis for  
14 debarment;

15 (9) any other cause that the [~~state purchasing~~  
16 ~~agent or a central purchasing office~~] public accountability  
17 board determines to be so serious and compelling as to affect  
18 responsibility as a contractor; or

19 (10) for a willful violation by a bidder,  
20 offeror or contractor of the provisions of the Procurement  
21 Code.

22 B. As used in this section, the terms "bidder",  
23 "offeror" and "contractor" include principals, officers,  
24 directors, owners, partners and managers of the bidder, offeror  
25 or contractor."

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1           SECTION 43. Section 13-1-196 NMSA 1978 (being Laws 1984,  
2 Chapter 65, Section 169) is amended to read:

3           "13-1-196. CIVIL PENALTY.--Any person, firm or  
4 corporation that knowingly violates any provision of the  
5 Procurement Code is subject to a civil penalty of not more than  
6 one thousand dollars (\$1,000) for each procurement in violation  
7 of any provision of the Procurement Code. The [~~attorney~~  
8 ~~general or the district attorney in the jurisdiction in which~~  
9 ~~the violation occurs~~] public accountability board is empowered  
10 to bring a civil action for the enforcement of any provision of  
11 the Procurement Code. Any penalty collected under the  
12 provisions of this section shall be credited to the general  
13 fund of the political subdivision in which the violation  
14 occurred and on whose behalf the suit was brought."

15           SECTION 44. Section 14-2-12 NMSA 1978 (being Laws 1993,  
16 Chapter 258, Section 9) is amended to read:

- 17           "14-2-12. ENFORCEMENT.--
- 18           A. An action to enforce the Inspection of Public  
19 Records Act may be brought by:
- 20                       (1) the [~~attorney general or the district~~  
21 ~~attorney in the county of jurisdiction~~] public accountability  
22 board; or
- 23                       (2) a person whose written request has been  
24 denied.
- 25           B. A district court may issue a writ of mandamus or

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1 order an injunction or other appropriate remedy to enforce the  
2 provisions of the Inspection of Public Records Act.

3 C. The exhaustion of administrative remedies shall  
4 not be required prior to bringing any action to enforce the  
5 procedures of the Inspection of Public Records Act.

6 D. The court shall award damages, costs and  
7 reasonable [~~attorneys'~~] attorney fees to any person whose  
8 written request has been denied and who is successful in a  
9 court action to enforce the provisions of the Inspection of  
10 Public Records Act."

11 SECTION 45. Section 34-10-2.1 NMSA 1978 (being Laws 1977,  
12 Chapter 289, Section 1) is amended to read:

13 "34-10-2.1. JUDICIAL STANDARDS COMMISSION--DUTIES--  
14 SUBPOENA POWER.--

15 A. Pursuant to the judicial standards commission's  
16 authority granted by Article 6, Section 32 of the constitution  
17 of New Mexico, any justice, judge or magistrate of any court  
18 may be disciplined or removed for willful misconduct in office,  
19 persistent failure or inability to perform the judge's duties  
20 or habitual intemperance, or may be retired for a disability  
21 that seriously interferes with the performance of the  
22 justice's, judge's or magistrate's duties and that is, or is  
23 likely to become, of a permanent character. The judicial  
24 standards commission is granted the same authority to regulate  
25 the conduct and character of board members of the public

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1 accountability board, court-appointed commissioners, judicial  
2 hearing officers, administrative law judges or special masters  
3 while acting in a judicial capacity.

4 B. With respect to the officials listed in  
5 Subsection A of this section, the judicial standards commission  
6 shall:

7 (1) investigate all charges, complaints and  
8 allegations as to willful misconduct in office, persistent  
9 failure or inability to perform ~~[a judge's]~~ official duties or  
10 habitual intemperance, ~~[of any justice, judge or magistrate of~~  
11 ~~any court, and when]~~ if the commission deems necessary, and  
12 hold a hearing on the charges, complaints or allegations  
13 concerning the discipline or removal of ~~[such judicial officer]~~  
14 the official;

15 (2) investigate and, if the commission deems  
16 necessary, hold hearings on any charge, complaint or allegation  
17 that ~~[a justice, judge or magistrate]~~ an official listed in  
18 Subsection A of this section has suffered a disability that is  
19 seriously interfering with the performance of ~~[his]~~ the  
20 official's duties ~~[which]~~ and that is, or is likely to become,  
21 of a permanent character;

22 (3) if the commission deems it necessary or  
23 convenient, appoint three masters, who are justices or judges  
24 of courts of record, to hear and take evidence in any matter  
25 arising under Paragraph (1) or (2) of this subsection who shall

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1 report their findings to the commission; and

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

8 [~~B.~~] C. In any investigation or hearing held under  
9 the provisions of this section, the commission [~~shall have the~~  
10 ~~power to~~] may administer oaths and, with the concurrence of a  
11 majority of the members of the commission, [~~it may~~] petition a  
12 district court to subpoena witnesses, compel their attendance  
13 and examine them under oath or affirmation and require the  
14 production of any books, records, documents or other evidence  
15 it may deem relevant or material to an investigation upon a  
16 showing of probable cause."

17 **SECTION 46. TEMPORARY PROVISION--COMPILER'S**  
18 **INSTRUCTION.--**The New Mexico compilation commission shall  
19 rename Chapter 2, Article 15 NMSA 1978 "Legislative Ethics  
20 Committee".

21 **SECTION 47. REPEAL.--**Sections 2-15-1 through 2-15-6,  
22 2-15-10 and 10-16-14 NMSA 1978 (being Laws 1993, Chapter 46,  
23 Sections 46 through 51 and 55 and Laws 1967, Chapter 306,  
24 Section 14, as amended) are repealed.

25 **SECTION 48. APPLICABILITY.--**The provisions of the Public

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1 Accountability Act apply to conduct that occurs on or after  
2 January 1, 2019.

3 SECTION 49. EFFECTIVE DATE.--

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

6 B. The effective date of the provisions of Sections  
7 13 and 45 of this act is July 1, 2018.

8 C. The effective date of the provisions of Sections 1  
9 through 12, 14 through 22, 24 through 44, 47 and 48 of this act  
10 is July 1, 2019.

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