

HOUSE BILL 190

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Brian F. Egolf

AN ACT

RELATING TO ETHICS; ENACTING THE STATE ETHICS COMMISSION ACT;
CREATING THE STATE ETHICS COMMISSION; PROVIDING FOR AN
EXECUTIVE DIRECTOR; PROVIDING FOR ANNUAL ETHICS TRAINING AND
THE PUBLICATION OF ETHICS GUIDES; REQUIRING THE DEVELOPMENT OF
A PROPOSED ETHICS CODE; PROVIDING FOR THE ISSUANCE OF ADVISORY
OPINIONS; TRANSFERRING THE ADMINISTRATION OF CERTAIN ACTS TO
THE STATE ETHICS COMMISSION; PROVIDING FOR THE FILING OF
COMPLAINTS AGAINST STATE OFFICIALS, STATE EMPLOYEES, GOVERNMENT
CONTRACTORS AND LOBBYISTS FOR ETHICS VIOLATIONS; PROVIDING FOR
INVESTIGATIONS AND HEARINGS; GRANTING SUBPOENA POWERS;
REQUIRING CONFIDENTIALITY; PROHIBITING RETALIATION; PROVIDING
PENALTIES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION
OF LAW IN LAWS 2009; MAKING AN APPROPRIATION.

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

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1 SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
2 through 16 of this act may be cited as the "State Ethics
3 Commission Act".

4 SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
5 State Ethics Commission Act:

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

12 B. "commission" means the state ethics commission;

13 C. "commissioner" means a member of the commission;

14 D. "complainant" means a person who files an ethics
15 complaint with the commission;

16 E. "director" means the executive director of the
17 commission;

18 F. "ethics violation" means an action that is a
19 violation of the Gift Act; the Governmental Conduct Act; the
20 Procurement Code; the Lobbyist Regulation Act; the Financial
21 Disclosure Act; the Voter Action Act; Chapter 1, Article 19
22 NMSA 1978, including the Campaign Reporting Act; or any code of
23 ethics adopted pursuant to those laws or Section 5 of the State
24 Ethics Commission Act;

25 G. "government contractor" means a person who has a

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1 contract with a state agency or who has submitted a competitive
2 sealed proposal or competitive sealed bid for a contract with a
3 state agency;

4 H. "legislative body" means the house of
5 representatives or the senate;

6 I. "lobbying" means attempting to influence:

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

12 (2) an official action;

13 J. "lobbyist" means a person who is compensated for
14 the specific purpose of lobbying; who is designated by an
15 interest group or organization to represent it on a substantial
16 or regular basis for the purpose of lobbying; or who, in the
17 course of the person's employment, is engaged in lobbying on a
18 substantial or regular basis. "Lobbyist" does not include:

19 (1) a person who appears on the person's own
20 behalf in connection with legislation or an official action;

21 (2) an elected or appointed officer of the
22 state, a political subdivision of the state or an Indian
23 nation, tribe or pueblo who is acting in the officer's official
24 capacity;

25 (3) a state employee or an employee of a

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1 political subdivision of the state, specifically designated by
2 an elected or appointed officer, who appears before a
3 legislative committee or in a rulemaking proceeding only to
4 explain the effect of legislation or a rule on that employee's
5 agency or political subdivision; provided that the elected or
6 appointed officer files the designation with the commission and
7 makes it available for public inspection;

8 (4) a designated member of the staff of an
9 elected state official; provided that the elected state
10 official files the designation with the commission and makes it
11 available for public inspection;

12 (5) a legislator or legislative staff member;

13 (6) a witness called by a legislative
14 committee or administrative agency to appear before it in
15 connection with legislation or an official action;

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

21 (8) a publisher, owner or employee of the news
22 media while gathering or disseminating news or editorial
23 comment to the general public in the ordinary course of
24 business;

25 K. "official action" means a decision, action or

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1 nonaction of a state official or state agency in a rulemaking
2 or other matter, except an adjudicatory proceeding;

3 L. "political party" means a political party that
4 has complied with the provisions of Section 1-7-2 NMSA 1978;

5 M. "respondent" means a state official, state
6 employee, government contractor or lobbyist who is the subject
7 of a complaint filed with or by the commission;

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

16 O. "state employee" means an employee of a state
17 agency; and

18 P. "state official" means a person elected to an
19 office of the executive or legislative branch of the state or a
20 person appointed to a state agency.

21 SECTION 3. [NEW MATERIAL] STATE ETHICS COMMISSION

22 CREATED--MEMBERSHIP--TERMS--REMOVAL.--

23 A. The "state ethics commission" is created as an
24 adjunct agency of the executive branch under the direction of
25 eleven commissioners, appointed as follows:

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1 (1) five commissioners appointed by the
2 governor, no more than three of whom shall be of the same
3 political party and at least one commissioner shall be
4 appointed from each congressional district;

5 (2) one commissioner appointed by the
6 president pro tempore of the senate;

7 (3) one commissioner appointed by the minority
8 floor leader of the senate;

9 (4) one commissioner appointed by the speaker
10 of the house of representatives;

11 (5) one commissioner appointed by the minority
12 floor leader of the house of representatives; and

13 (6) two commissioners appointed by the chief
14 justice of the supreme court, who shall be district court
15 judges and who shall not be of the same political party and
16 shall not be appointed from the same congressional district.

17 B. The appointing authorities shall give due regard
18 to the cultural diversity of the state and to achieving
19 geographical representation from across the state. No more
20 than five commissioners shall be registered members of the same
21 political party.

22 C. Each appointing authority shall file letters of
23 appointment with the secretary of state.

24 D. Commissioners shall be appointed for staggered
25 terms of four years beginning July 1, 2013. The initial

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1 commissioners shall draw lots to determine which three
2 commissioners serve an initial term of two years, which four
3 commissioners serve an initial term of three years and which
4 four commissioners serve an initial term of four years;
5 thereafter, all commissioners shall serve four-year terms.
6 Members shall serve until their successors are appointed and
7 qualified.

8 E. A person shall not serve as a commissioner for
9 more than two consecutive terms. A vacancy on the commission
10 shall be filled by appointment by the original appointing
11 authority for the remainder of the unexpired term.

12 F. The commission shall meet as necessary to carry
13 out its duties pursuant to the State Ethics Commission Act.
14 Commissioners are entitled to receive per diem and mileage as
15 provided in the Per Diem and Mileage Act and shall receive no
16 other compensation, perquisite or allowance.

17 G. The commission shall elect a chair, who shall be
18 one of the governor's appointees, and a vice chair and other
19 officers it deems necessary.

20 H. Six commissioners constitute a quorum for the
21 transaction of business. No action shall be taken by the
22 commission unless at least six members concur.

23 I. A commissioner may be removed only for
24 incompetence, neglect of duty or malfeasance in office. A
25 proceeding for the removal of a commissioner may be commenced

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1 by the commission or by the attorney general upon the request
2 of the commission. The supreme court has exclusive
3 jurisdiction over proceedings to remove commissioners, and its
4 decision shall be final. A commissioner shall be given notice
5 of hearing and an opportunity to be heard before the
6 commissioner is removed.

7 SECTION 4. [NEW MATERIAL] COMMISSIONERS--QUALIFICATIONS--
8 LIMITATIONS.--

9 A. To qualify for appointment to the commission, a
10 person shall:

- 11 (1) be a resident of New Mexico; and
12 (2) not have changed political party
13 affiliation for at least one year prior to appointment.

14 B. Before entering upon the duties of the office of
15 commissioner, each commissioner shall review the State Ethics
16 Commission Act and other laws and rules pertaining to the
17 commission's responsibilities and to ethics and governmental
18 conduct in New Mexico. Each commissioner shall take the oath
19 of office as provided in Article 20, Section 1 of the
20 constitution of New Mexico.

21 C. During a commissioner's tenure, a commissioner
22 shall not:

- 23 (1) seek or hold an office in a political
24 party;
25 (2) seek or hold an elective public office or

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1 an appointed public position, except for a commissioner
2 appointed by the chief justice of the supreme court in
3 continuing to hold the office of district court judge; or

4 (3) be a state employee, government contractor
5 or lobbyist.

6 D. A commissioner who violates Subsection C of this
7 section is deemed to have resigned from the commission.

8 E. For a period of one calendar year following a
9 commissioner's tenure or following the resignation or removal
10 of a commissioner, the commissioner shall not:

11 (1) seek or hold an elective public office, an
12 appointed public position or public employment, except for a
13 commissioner appointed by the chief justice of the supreme
14 court in continuing to hold the office of district court judge;

15 (2) represent a respondent, unless appearing
16 on the commissioner's own behalf; or

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

21 SECTION 5. [NEW MATERIAL] COMMISSION--DUTIES AND
22 POWERS.--

23 A. The commission shall:

24 (1) receive and investigate complaints
25 alleging ethics violations against state officials, state

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1 employees, government contractors and lobbyists;

2 (2) hold hearings in appropriate cases to
3 determine whether there has been an ethics violation;

4 (3) beginning on January 1, 2014, administer
5 the provisions of the following acts:

6 (a) the Campaign Reporting Act;

7 (b) the Voter Action Act;

8 (c) the Lobbyist Regulation Act;

9 (d) the Governmental Conduct Act;

10 (e) the Financial Disclosure Act; and

11 (f) the Gift Act;

12 (4) develop, adopt and promulgate the rules
13 necessary to implement and administer the provisions of the
14 State Ethics Commission Act;

15 (5) compile, index, maintain and provide
16 public access to all advisory opinions and reports required to
17 be made public pursuant to the State Ethics Commission Act;

18 (6) draft a proposed code of ethics for state
19 officials and state employees and submit the proposed code to
20 each elected state official and state agency for adoption;

21 (7) compile, adopt, publish and make available
22 to all state officials, state employees, government contractors
23 and lobbyists an ethics guide that clearly and plainly explains
24 the ethics requirements set forth in state law, including those
25 that relate to conducting business with the state;

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1 (8) offer annual ethics training to state
2 officials, state employees, government contractors, lobbyists
3 and other interested persons;

4 (9) employ an executive director, who shall be
5 an attorney; and

6 (10) submit an annual report of its
7 activities, including any recommendations regarding state
8 ethics laws or the scope of its powers and duties, in December
9 of each year to the legislature and the governor.

10 B. The commission may:

11 (1) initiate complaints alleging ethics
12 violations against state officials, state employees, government
13 contractors and lobbyists;

14 (2) issue subpoenas requiring the attendance
15 of witnesses or the production of books, records, documents or
16 other evidence relevant to an investigation; and

17 (3) issue advisory opinions to state
18 officials, state employees, government contractors and
19 lobbyists in accordance with the provisions of the State Ethics
20 Commission Act.

21 SECTION 6. [NEW MATERIAL] EXECUTIVE DIRECTOR--
22 APPOINTMENT--DUTIES AND POWERS.--

23 A. The commission shall appoint an executive
24 director who shall be knowledgeable about state ethics laws and
25 who shall be appointed without reference to party affiliation

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1 and solely on the grounds of fitness to perform the duties of
2 the office. The director shall hold office from the date of
3 appointment until such time as the director is removed by the
4 commission.

5 B. The director shall:

6 (1) take the oath of office required by
7 Article 20, Section 1 of the constitution of New Mexico;

8 (2) perform investigations on behalf of the
9 commission;

10 (3) bring complaints and investigation results
11 before the commission for consideration;

12 (4) prepare an annual budget for the
13 commission and submit it to the commission for approval;

14 (5) make recommendations to the commission of
15 proposed rules or legislative changes needed to provide better
16 administration of the State Ethics Commission Act; and

17 (6) perform other duties as assigned by the
18 commission.

19 C. The director may:

20 (1) hire a general counsel for the commission
21 and additional personnel as may be necessary to carry out the
22 duties of the commission;

23 (2) enter into contracts and agreements on
24 behalf of the commission; and

25 (3) administer oaths and take depositions

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1 subject to the Rules of Civil Procedure for the District
2 Courts.

3 D. For a period of one calendar year immediately
4 following the director's employment with the commission, the
5 director shall not:

6 (1) seek or hold an elective public office, an
7 appointed public position or public employment;

8 (2) represent a respondent, unless appearing
9 on the director's own behalf; or

10 (3) accept employment or otherwise provide
11 services to a respondent, unless the director accepted
12 employment or provided services prior to the filing of a
13 complaint against the respondent.

14 SECTION 7. [NEW MATERIAL] RECUSAL--DISQUALIFICATION.--

15 A. A commissioner shall recuse from and not
16 participate in a commission proceeding in which the
17 commissioner has a conflict of interest. The commissioner
18 shall state the reason for the recusal.

19 B. If the propriety of a commissioner's
20 participation in a particular matter is questioned on the
21 grounds that the commissioner has a conflict of interest, the
22 commission may disqualify that commissioner from participation
23 in a commission proceeding.

24 C. A recused or disqualified commissioner shall not
25 participate in any proceeding related to the matter from which

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1 the commissioner is recused or disqualified, and the
2 commissioner shall be excused from that portion of a meeting at
3 which the matter is discussed.

4 D. If four or more commissioners have recused
5 themselves or are disqualified from participating in a
6 proceeding, the remaining commissioners shall appoint temporary
7 commissioners to participate in that proceeding. Appointments
8 of temporary commissioners shall be made by a majority vote of
9 the remaining commissioners in accordance with the political
10 party affiliation and geographical representation requirements
11 and the qualifications of Sections 3 and 4 of the State Ethics
12 Commission Act.

13 E. The commission shall promulgate rules for the
14 recusal and disqualification of members and for the appointment
15 of temporary commissioners.

16 SECTION 8. [NEW MATERIAL] ADVISORY OPINIONS.--

17 A. The commission may issue advisory opinions on
18 matters related to ethics. Advisory opinions shall:

19 (1) be requested in writing by a state
20 official, state employee, government contractor or lobbyist;

21 (2) identify a specific set of circumstances
22 involving an ethics issue;

23 (3) be issued within sixty days of receipt of
24 the request unless the commission notifies the requester of a
25 delay in issuance and continues to notify the requester every

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1 thirty days until the advisory opinion is issued; and

2 (4) be published after omitting the
3 requester's name and identifying information.

4 B. A request for an advisory opinion is
5 confidential and not subject to the provisions of the
6 Inspection of Public Records Act.

7 C. Unless amended or revoked, an advisory opinion
8 shall be binding on the commission in any subsequent commission
9 proceedings concerning a person who acted in good faith and in
10 reasonable reliance on the advisory opinion.

11 SECTION 9. [NEW MATERIAL] COMPLAINTS--INVESTIGATIONS--
12 SUBPOENAS.--

13 A. A complaint of an alleged ethics violation
14 committed by a state official, state employee, government
15 contractor or lobbyist may be:

16 (1) filed with the commission by a person who
17 has actual knowledge of the alleged ethics violation; or

18 (2) initiated by the commission upon receipt
19 of evidence deemed sufficient by the commission.

20 B. The complainant shall set forth in detail the
21 specific charges against the state official, state employee,
22 government contractor or lobbyist and the factual allegations
23 that support the charges and shall sign the complaint under
24 penalty of false statement. The complainant shall submit any
25 evidence the complainant has that supports the complaint.

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1 Evidence may include documents, records and names of witnesses.
2 The commission shall prescribe the forms on which complaints
3 are to be filed.

4 C. The chair of the commission shall sign a
5 complaint initiated by the commission, and the complaint shall
6 set forth in detail the specific charges against the state
7 official, state employee, government contractor or lobbyist and
8 the factual allegations that support the charges.

9 D. The director shall bring all complaints before
10 the commission and make recommendations to the commission as to
11 whether the conduct alleged in a complaint is within the
12 jurisdiction of the commission and warrants investigation.

13 E. The commission shall dismiss complaints that are
14 frivolous, unfounded or outside the jurisdiction of the
15 commission. If the commission dismisses a complaint pursuant
16 to this subsection, the director shall promptly notify the
17 complainant.

18 F. If the commission determines that there is
19 sufficient cause to proceed with an investigation, the director
20 shall investigate the complaint. The director shall promptly
21 notify the respondent that a complaint has been filed and is
22 being investigated and shall notify the respondent of the
23 specific allegations in the complaint and the specific ethics
24 violations implicated by the complaint.

25 G. As part of an investigation, the director may

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

10 H. The commission may issue subpoenas for the
11 attendance and examination of witnesses or for the production
12 of books, records, documents, things or other evidence
13 reasonably related to an investigation. A subpoena shall be
14 signed by the chair of the commission and shall command the
15 person to whom it is directed to attend and give testimony or
16 to produce and permit the inspection of books, documents,
17 records, things or other evidence. A subpoena shall state the
18 general nature of the investigation and shall describe with
19 reasonable specificity the nature of the information to be
20 produced, the time and place where the information shall be
21 produced and the consequences of failure to obey the subpoena.
22 After service of a subpoena, if a person neglects or refuses to
23 comply with the subpoena, the commission may apply to a
24 district court for an order enforcing the subpoena and
25 compelling compliance.

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1 I. A state official or state employee who is a
2 respondent shall be entitled to representation by the risk
3 management division of the general services department;
4 provided, however, that if the respondent is found to have
5 committed an ethics violation, the respondent shall reimburse
6 the division for the respondent's equitable share of reasonable
7 attorney fees and costs. If the respondent was represented by
8 an attorney employee of the risk management division, the
9 division shall be reimbursed at the full cost incurred by the
10 division, including benefits and taxes, for employing the
11 attorney for the hours the attorney provided on the case.

12 SECTION 10. [NEW MATERIAL] STATUS OF INVESTIGATION--TIME
13 LIMITATIONS.--

14 A. If the commission has not scheduled a hearing
15 concerning the disposition of a complaint within ninety days
16 after the complaint is received or initiated by the commission,
17 the director shall, as soon as practicable, report to the
18 commission on the progress and status of the investigation.
19 The commission may dismiss the complaint or instruct the
20 director to continue investigating the complaint. Unless the
21 commission dismisses the complaint, the director shall report
22 to the commission every ninety days thereafter on the progress
23 and status of the investigation.

24 B. Upon dismissal or a decision to continue an
25 investigation of a complaint, the commission shall notify the

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1 respondent in writing of its action. The commission shall also
2 notify the complainant of the dismissal of a complaint. The
3 commission shall not publicly disclose its action or
4 notification except upon the request of the respondent.

5 SECTION 11. [NEW MATERIAL] REPORT--HEARING--FINDINGS AND
6 CONCLUSIONS--DISCLOSURE OF ETHICS VIOLATION.--

7 A. The director shall provide a written report of
8 the investigation to the commission and to the respondent. The
9 director shall provide the respondent with reasonable written
10 notice of the date, time and place of the commission hearing.

11 B. At the hearing, the commission has the power to
12 administer oaths. One of the commissioners appointed by the
13 chief justice of the supreme court shall preside over the
14 hearing. The respondent has the right to be represented by
15 counsel and to present evidence and testimony and examine and
16 cross-examine witnesses.

17 C. After the hearing, if the commission finds by
18 clear and convincing evidence that the respondent's conduct
19 constituted an ethics violation, the commission shall issue a
20 written report that shall include findings of fact and
21 conclusions of law. If the respondent is a state official or
22 state employee, the written report may include a public
23 reprimand or censure regarding the respondent's behavior or
24 recommendations for disciplinary action against the respondent.

25 D. The commission shall publicly disclose a report

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1 issued pursuant to Subsection C of this section and provide it,
2 along with all evidence collected during its investigation, to
3 the respondent, the attorney general and the:

4 (1) appropriate legislative body if the
5 respondent is a member of the legislature;

6 (2) house of representatives if the respondent
7 is a state official elected to an office of the executive
8 branch;

9 (3) respondent's appointing authority if the
10 respondent is an appointed state official;

11 (4) appropriate state agency if the respondent
12 is a state employee;

13 (5) state agency with which the respondent has
14 a government contract if the respondent is a government
15 contractor; or

16 (6) respondent's employer and clients if the
17 respondent is a lobbyist.

18 E. If, after the hearing, the commission does not
19 find by clear and convincing evidence that the respondent's
20 conduct constituted an ethics violation, the commission shall
21 dismiss the complaint and provide notice of the dismissal to
22 the respondent and complainant no later than five days after
23 the finding is made. A notice issued pursuant to this
24 subsection shall not be public except upon the request of the
25 respondent.

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1 F. Notwithstanding the provisions of the Open
2 Meetings Act, commission hearings held pursuant to this section
3 are closed to the public. The commission shall promulgate
4 rules establishing procedures for hearings.

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

6 All complaints, reports, files, records and communications
7 collected or generated by the commission or its director that
8 pertain to alleged ethics violations are confidential and not
9 subject to the provisions of the Inspection of Public Records
10 Act. Such complaints, reports, files, records or
11 communications shall not be disclosed unless:

12 A. disclosure is required pursuant to the
13 provisions of the State Ethics Commission Act;

14 B. they are offered into evidence at a judicial,
15 legislative or administrative proceeding;

16 C. disclosure is required by law or ordered by a
17 court; or

18 D. the respondent files with the commission a
19 written waiver of confidentiality.

20 SECTION 13. [NEW MATERIAL] CRIMINAL VIOLATIONS--

21 REFERRAL.--If the commission finds at any time that the
22 respondent's conduct may amount to a criminal violation, the
23 commission shall immediately refer the matter to the attorney
24 general or an appropriate district attorney. The commission
25 shall provide the attorney general or district attorney with

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1 all evidence collected during its investigation that may be
2 used in a criminal proceeding. Nothing in this section
3 prevents the commission from taking any action otherwise
4 authorized by the State Ethics Commission Act or deciding to
5 hold a matter in abeyance pending resolution of any criminal
6 charges.

7 SECTION 14. [NEW MATERIAL] LIMITATIONS ON JURISDICTION.--

8 A. The commission shall not accept or consider a
9 complaint unless the complaint is filed or initiated within
10 three years from the date on which the alleged conduct
11 occurred.

12 B. The commission shall not take action on a
13 complaint filed or initiated against a candidate for a public
14 office covered by the State Ethics Commission Act on or after
15 the filing date for a primary election through election day of
16 the general election, except in accordance with the provisions
17 of the Campaign Reporting Act or the Voter Action Act. The
18 commission shall dismiss complaints that are frivolous,
19 unfounded or outside the jurisdiction of the commission. A
20 complainant shall be notified of this provision and shall be
21 notified that the complainant may refer any allegations of
22 criminal conduct to the attorney general or appropriate
23 district attorney. The respondent shall be notified that a
24 complaint has been filed and of the specific allegations in the
25 complaint.

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1 C. The commission shall not investigate allegations
2 of misconduct involving campaign advertisements.

3 SECTION 15. [NEW MATERIAL] PROHIBITED ACTIONS.--

4 A. A person shall not take or threaten to take any
5 retaliatory, disciplinary or other adverse action against
6 another person who in good faith:

7 (1) files a complaint with the commission
8 alleging an ethics violation against a state official, state
9 employee, government contractor or lobbyist; or

10 (2) provides testimony, records, documents or
11 other information to the commission during an investigation or
12 at a hearing conducted pursuant to the State Ethics Commission
13 Act.

14 B. Nothing in the State Ethics Commission Act
15 precludes civil actions or criminal sanctions for libel,
16 slander or other civil or criminal claims against a person who
17 files a false claim under that act.

18 SECTION 16. [NEW MATERIAL] CONFIDENTIALITY--PENALTY.--

19 A. Disclosure of any confidential complaint,
20 report, file, record or communication in violation of the State
21 Ethics Commission Act is a misdemeanor and shall be punished by
22 a fine of not more than one thousand dollars (\$1,000) or by
23 imprisonment for not more than one year or both.

24 B. In addition to a penalty imposed pursuant to
25 Subsection A of this section, a court may impose a civil

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1 penalty not to exceed twenty-five thousand dollars (\$25,000)
2 for each violation of Section 12 of the State Ethics Commission
3 Act.

4 C. The provisions of this section apply to a
5 commission member, the director and commission employees or
6 agents and also apply to a complainant from the time the
7 complaint is filed until it is resolved and a final
8 determination is made.

9 SECTION 17. Section 1-19-26 NMSA 1978 (being Laws 1979,
10 Chapter 360, Section 2, as amended by Laws 2009, Chapter 67,
11 Section 1 and by Laws 2009, Chapter 68, Section 2) is amended
12 to read:

13 "1-19-26. DEFINITIONS.--As used in the Campaign Reporting
14 Act:

15 A. "advertising campaign" means an advertisement or
16 series of advertisements used for a political purpose and
17 disseminated to the public either in print, by radio or
18 television broadcast or by any other electronic means,
19 including telephonic communications, and may include direct or
20 bulk mailings of printed materials;

21 B. "anonymous contribution" means a contribution
22 the contributor of which is unknown to the candidate or the
23 candidate's agent or the political committee or its agent who
24 accepts the contribution;

25 C. "bank account" means an account in a financial

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1 institution located in New Mexico;

2 D. "campaign committee" means two or more persons
3 authorized by a candidate to raise, collect or expend
4 contributions on the candidate's behalf for the purpose of
5 electing the candidate to office;

6 E. "candidate" means an individual who seeks or
7 considers an office in an election covered by the Campaign
8 Reporting Act, including a public official, who either has
9 filed a declaration of candidacy or nominating petition or:

10 (1) for a non-statewide office, has received
11 contributions or made expenditures of one thousand dollars
12 (\$1,000) or more or authorized another person or campaign
13 committee to receive contributions or make expenditures of one
14 thousand dollars (\$1,000) or more for the purpose of seeking
15 election to the office; or

16 (2) for a statewide office, has received
17 contributions or made expenditures of two thousand five hundred
18 dollars (\$2,500) or more or authorized another person or
19 campaign committee to receive contributions or make
20 expenditures of two thousand five hundred dollars (\$2,500) or
21 more for the purpose of seeking election to the office or for
22 candidacy exploration purposes in the years prior to the year
23 of the election;

24 F. "contribution" means a gift, subscription, loan,
25 advance or deposit of money or other thing of value, including

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1 the estimated value of an in-kind contribution, that is made or
2 received for a political purpose, including payment of a debt
3 incurred in an election campaign, but "contribution" does not
4 include the value of services provided without compensation or
5 unreimbursed travel or other personal expenses of individuals
6 who volunteer a portion or all of their time on behalf of a
7 candidate or political committee, nor does it include the
8 administrative or solicitation expenses of a political
9 committee that are paid by an organization that sponsors the
10 committee;

11 G. "deliver" or "delivery" means to deliver by
12 certified or registered mail, telecopier, electronic
13 transmission or facsimile or by personal service;

14 H. "election" means any primary, general or
15 statewide special election in New Mexico and includes county
16 and judicial retention elections but excludes municipal, school
17 board and special district elections;

18 I. "election year" means an even-numbered year in
19 which an election covered by the Campaign Reporting Act is
20 held;

21 J. "expenditure" means a payment, transfer or
22 distribution or obligation or promise to pay, transfer or
23 distribute any money or other thing of value for a political
24 purpose, including payment of a debt incurred in an election
25 campaign or pre-primary convention, but does not include the

1 administrative or solicitation expenses of a political
2 committee that are paid by an organization that sponsors the
3 committee;

4 K. "person" means an individual or entity;

5 L. "political committee" means two or more persons,
6 other than members of a candidate's immediate family or
7 campaign committee or a husband and wife who make a
8 contribution out of a joint account, who are selected,
9 appointed, chosen, associated, organized or operated primarily
10 for a political purpose; and "political committee" includes:

11 (1) political parties, political action
12 committees or similar organizations composed of employees or
13 members of any corporation, labor organization, trade or
14 professional association or any other similar group that
15 raises, collects, expends or contributes money or any other
16 thing of value for a political purpose;

17 (2) a single individual whose actions
18 represent that the individual is a political committee; and

19 (3) a person or an organization of two or more
20 persons that within one calendar year expends funds in excess
21 of five hundred dollars (\$500) to conduct an advertising
22 campaign for a political purpose;

23 M. "political purpose" means influencing or
24 attempting to influence an election or pre-primary convention,
25 including a constitutional amendment or other question

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1 submitted to the voters;

2 N. "prescribed form" means a form or electronic
3 format prepared and prescribed by the [~~secretary of~~] state
4 ethics commission;

5 O. "proper filing officer" means [~~either the~~
6 ~~secretary of state or the county clerk~~] the state ethics
7 commission as provided in Section 1-19-27 NMSA 1978;

8 P. "public official" means a person elected to an
9 office in an election covered by the Campaign Reporting Act or
10 a person appointed to an office that is subject to an election
11 covered by that act; and

12 Q. "reporting individual" means every public
13 official, candidate or treasurer of a campaign committee and
14 every treasurer of a political committee."

15 SECTION 18. Section 1-19-26.1 NMSA 1978 (being Laws 1993,
16 Chapter 46, Section 2, as amended) is amended to read:

17 "1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--
18 DISCLOSURES.--

19 A. It is unlawful for [~~any~~] a political committee
20 that receives, contributes or expends in excess of five hundred
21 dollars (\$500) in any calendar year to continue to receive or
22 make [~~any~~] a contribution or expenditure for a political
23 purpose unless that political committee appoints and maintains
24 a treasurer and registers with the [~~secretary of~~] state ethics
25 commission.

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1 B. A political committee shall register with the
2 ~~[secretary of]~~ state ethics commission within ten days of
3 receiving, contributing or expending in excess of five hundred
4 dollars (\$500) by paying a filing fee of fifty dollars (\$50.00)
5 and filing a statement of organization under oath on a
6 prescribed form showing:

7 (1) the full name of the political committee,
8 which shall fairly and accurately reflect the identity of the
9 committee, including any sponsoring organization, and its
10 address;

11 (2) a statement of the purpose for which the
12 political committee was organized;

13 (3) the name, address and relationship of any
14 connected or associated organization or entity;

15 (4) the names and addresses of the officers of
16 the committee; and

17 (5) an identification of the bank used by the
18 committee for all expenditures or contributions made or
19 received.

20 C. The provisions of this section do not apply to a
21 political committee that is located in another state and is
22 registered with the federal election commission if the
23 political committee reports on federal reporting forms filed
24 with the federal election commission all expenditures for and
25 contributions made to reporting individuals in New Mexico and

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1 files with the [~~secretary of~~] state ethics commission,
2 according to the schedule required for the filing of forms with
3 the federal election commission, a copy of either the full
4 report or the cover sheet and the portions of the federal
5 reporting forms that contain the information on expenditures
6 for and contributions made to reporting individuals in New
7 Mexico."

8 SECTION 19. Section 1-19-26.2 NMSA 1978 (being Laws 1997,
9 Chapter 112, Section 1) is amended to read:

10 "1-19-26.2. RULES [~~AND REGULATIONS~~].--The [~~secretary of~~]
11 state ethics commission may adopt and promulgate rules [~~and~~
12 ~~regulations~~] to implement the provisions of the Campaign
13 Reporting Act. In adopting and promulgating these rules [~~and~~
14 ~~regulations~~], the [~~secretary of state~~] commission shall comply
15 with the provisions of the Administrative Procedures Act. In
16 addition to any other notification required pursuant to the
17 provisions of Paragraph (2) of Subsection A of Section 12-8-4
18 NMSA 1978, the [~~secretary of state~~] commission shall notify all
19 qualified political parties in the state and the New Mexico
20 legislative council prior to adopting, amending or repealing
21 any rule [~~or regulation~~] implementing the Campaign Reporting
22 Act."

23 SECTION 20. Section 1-19-27 NMSA 1978 (being Laws 1979,
24 Chapter 360, Section 3, as amended) is amended to read:

25 "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER.--

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1 A. Except for those candidates and public
2 ~~[officials]~~ officials who file a statement of no activity, all
3 reporting individuals shall file with the proper filing officer
4 a report of expenditures and contributions on a prescribed
5 form.

6 B. The proper filing officer for filing reports of
7 expenditures and contributions by a political committee is the
8 ~~[secretary of]~~ state ethics commission.

9 C. The proper filing officer for filing reports of
10 expenditures and contributions or statements of no activity is
11 the ~~[secretary of]~~ state ethics commission for all candidates
12 and public officials.

13 D. The ~~[secretary of]~~ state ethics commission shall
14 develop or contract for services to develop an electronic
15 reporting system for receiving and for public inspection of
16 reports of expenditures and contributions and statements of no
17 activity to the Campaign Reporting Act. The electronic
18 reporting system shall:

19 (1) enable a person to file reports online by
20 filling out forms on the ~~[secretary of state's]~~ commission's
21 web site; and

22 (2) provide for encrypted transmissions."

23 SECTION 21. Section 1-19-28 NMSA 1978 (being Laws 1979,
24 Chapter 360, Section 4, as amended) is amended to read:

25 "1-19-28. FURNISHING REPORT FORMS--POLITICAL COMMITTEES--

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1 CANDIDATES.--

2 A. The [~~secretary of~~] state ethics commission
3 annually shall furnish to all reporting individuals the
4 prescribed forms for the reporting of expenditures and
5 contributions, supplemental reports and a statement of no
6 activity and the specific dates the reports and statement are
7 due.

8 B. In addition to the provisions of Subsection A of
9 this section, at the time of filing a declaration of candidacy
10 or a nominating petition, the [~~proper filing officer~~] secretary
11 of state or county clerk shall give the candidate the
12 prescribed reporting forms and the schedule of specific dates
13 for filing the required reports or a statement of no activity.
14 The prescribed forms shall also be made available to all
15 reporting individuals at the office of the secretary of state,
16 the state ethics commission and in each county at the office of
17 the county clerk."

18 SECTION 22. Section 1-19-29 NMSA 1978 (being Laws 1993,
19 Chapter 46, Section 5, as amended) is amended to read:

20 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

21 A. Except as otherwise provided in this section,
22 all reporting individuals shall file with the proper filing
23 officer by 5:00 p.m. on the second Monday in April and October
24 a report of all expenditures made and contributions received on
25 or before the first Monday in those months and not previously

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1 reported. The report shall be filed biannually until the
2 reporting individual's bank account has been closed and the
3 other provisions specified in Subsection F of this section have
4 been satisfied.

5 B. In an election year, instead of the biannual
6 reports provided for in Subsection A of this section, all
7 reporting individuals, except for public officials who are not
8 candidates in an election that year, shall file reports of all
9 expenditures made and contributions received or, if applicable,
10 statements of no activity, according to the following schedule:

11 (1) by 5:00 p.m. on the second Monday in
12 April, a report of all expenditures made and contributions
13 received on or before the first Monday in April and not
14 previously reported;

15 (2) by 5:00 p.m. on the second Monday in May,
16 a report of all expenditures made and contributions received on
17 or before the first Monday in May and not previously reported;

18 (3) by 5:00 p.m. on the second Monday in
19 September, a report of all expenditures made and contributions
20 received on or before the first Monday in September and not
21 previously reported;

22 (4) by 5:00 p.m. on the second Monday in
23 October, a report of all expenditures made and contributions
24 received on or before the first Monday in October and not
25 previously reported;

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1 (5) by 5:00 p.m. on the Thursday before a
2 primary, general or statewide special election, a report of all
3 expenditures made and contributions received by 5:00 p.m. on
4 the Tuesday before the election. Any contribution or pledge to
5 contribute that is received after 5:00 p.m. on the Tuesday
6 before the election and that is for five hundred dollars (\$500)
7 or more in a legislative or non-statewide judicial election, or
8 two thousand five hundred dollars (\$2,500) or more in a
9 statewide election, shall be reported to the proper filing
10 officer either in a supplemental report on a prescribed form
11 within twenty-four hours of receipt or in the report to be
12 filed by 5:00 p.m. on the Thursday before a primary, general or
13 statewide special election, except that any such contribution
14 or pledge to contribute that is received after 5:00 p.m. on the
15 Friday before the election may be reported by 12:00 noon on the
16 Monday before the election; and

17 (6) by 5:00 p.m. on the thirtieth day after a
18 primary, general or statewide special election, a report of all
19 expenditures made and contributions received on or before the
20 twenty-fifth day after the election and not previously
21 reported.

22 C. If a candidate or public official has not
23 received any contributions and has not made any expenditures
24 since the candidate's or official's last report was filed with
25 the proper filing officer, the candidate or official shall only

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1 be required to file a statement of no activity, which shall not
2 be required to be notarized, in lieu of a full report when that
3 report would otherwise be due and shall not be required to file
4 a full report until the next required filing date occurring
5 after an expenditure is made or a contribution is received.

6 D. In an election year, a public official who is
7 not a candidate shall file biannual reports of expenditures
8 made and contributions received or statements of no activity in
9 accordance with the schedule provided for in Subsection A of
10 this section.

11 E. A report of expenditures and contributions filed
12 after a deadline set forth in this section shall not be deemed
13 to have been timely filed.

14 F. Except for candidates and public officials who
15 file a statement of no activity, each reporting individual
16 shall file a report of expenditures and contributions pursuant
17 to the filing schedules set forth in this section, regardless
18 of whether any expenditures were made or contributions were
19 received during the reporting period. Reports shall be
20 required until the reporting individual delivers a report to
21 the proper filing officer stating that:

- 22 (1) there are no outstanding campaign debts;
23 (2) all money has been expended in accordance
24 with the provisions of Section 1-19-29.1 NMSA 1978; and
25 (3) the bank account has been closed.

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1 G. Each treasurer of a political committee shall
2 file a report of expenditures and contributions pursuant to the
3 filing schedules set forth in this section until the treasurer
4 files a report that affirms that the committee has dissolved or
5 no longer exists and that its bank account has been closed.

6 H. A reporting individual who is a candidate within
7 the meaning of the Campaign Reporting Act because of the amount
8 of contributions the candidate receives or expenditures the
9 candidate makes and who does not ultimately file a declaration
10 of candidacy or a nominating petition with the proper filing
11 officer and does not file a statement of no activity shall file
12 biannual reports in accordance with Subsection A of this
13 section.

14 I. Reports required by this section shall be
15 subscribed and sworn to by the candidate or the treasurer of
16 the political committee. A report filed electronically shall
17 be electronically authenticated by the candidate or the
18 treasurer of the political committee using an electronic
19 signature in conformance with the Electronic Authentication of
20 Documents Act and the Uniform Electronic Transactions Act. For
21 the purposes of the Campaign Reporting Act, a report that is
22 electronically authenticated in accordance with the provisions
23 of this subsection shall be deemed to have been subscribed and
24 sworn to by the candidate or the treasurer of the political
25 committee who was required to file the report.

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1 J. Reports required by this section shall be filed
2 electronically by all reporting individuals.

3 K. Reporting individuals may apply to the
4 [~~secretary of~~] state ethics commission for exemption from
5 electronic filing in case of hardship, which shall be defined
6 by the [~~secretary of state~~] commission."

7 SECTION 23. Section 1-19-31 NMSA 1978 (being Laws 1979,
8 Chapter 360, Section 7, as amended) is amended to read:

9 "1-19-31. CONTENTS OF REPORT.--

10 A. Each required report of expenditures and
11 contributions shall be typed or printed legibly, or on a
12 computer disc or format approved by the [~~secretary of~~] state
13 ethics commission, and shall include:

14 (1) the name and address of the person or
15 entity to whom an expenditure was made or from whom a
16 contribution was received, except as provided for anonymous
17 contributions or contributions received from special events as
18 provided in Section 1-19-34 NMSA 1978; provided that for
19 contributors, the name of the entity or the first and last
20 names of any individual shall be the full name of the entity or
21 individual, and initials only shall not constitute a full name
22 unless that is the complete legal name;

23 (2) the occupation or type of business of any
24 person or entity making contributions of two hundred fifty
25 dollars (\$250) or more in the aggregate per election;

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- 1 (3) the amount of the expenditure or
- 2 contribution or value thereof;
- 3 (4) the purpose of the expenditure; and
- 4 (5) the date the expenditure was made or the
- 5 contribution was received.

6 B. Each report shall contain an opening and
7 closing cash balance for the bank account maintained by the
8 reporting individual during the reporting period and the name
9 of the financial institution.

10 C. Each report shall specify the amount of each
11 unpaid debt and the identity of the person to whom the debt is
12 owed."

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

15 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

16 A. Each of the following documents is a public
17 record open to public inspection during regular office hours in
18 the office in which the document was filed or from which the
19 document was issued:

- 20 (1) a statement of [~~exception~~] no activity;
- 21 (2) a report of expenditures and
- 22 contributions;
- 23 (3) an advisory opinion issued by the
- 24 [~~secretary of~~] state ethics commission;

- 25 (4) a document specified as a public record in

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1 the Campaign Reporting Act; and

2 (5) an arbitration decision issued by an
3 arbitration panel and filed with the ~~[secretary of]~~ state
4 ethics commission.

5 B. Each public record described in Subsection A of
6 this section shall be retained by the state for five years and
7 may be destroyed five years after the date of filing unless a
8 legal action or prosecution is pending that requires the
9 preservation of the public record.

10 C. The ~~[secretary of]~~ state ethics commission shall
11 provide for electronic access to reports of expenditures and
12 contributions and statements of ~~[exception]~~ no activity
13 submitted electronically by reporting individuals. Electronic
14 access shall include access via the internet and shall be in an
15 easily searchable format."

16 SECTION 25. Section 1-19-32.1 NMSA 1978 (being Laws 1981,
17 Chapter 331, Section 9, as amended) is amended to read:

18 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF
19 REPORTS.--

20 A. The ~~[secretary of]~~ state ethics commission shall
21 conduct a thorough examination of at least ten percent of all
22 reports filed during a year by reporting individuals, selected
23 at random at least forty days after the general election and
24 ten days after the April reports are filed in a nonelection
25 year, to determine compliance with the provisions of the

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1 Campaign Reporting Act. The examination may include an
2 investigation of any discrepancies, including a cross-reference
3 to reports filed by any other reporting individual. A
4 reporting individual shall be notified in writing if a
5 discrepancy is found in the report filed and shall be permitted
6 to file a written explanation for the discrepancy within ten
7 working days of the date of the notice. The notice, penalty
8 and arbitration provisions set forth in Section 1-19-34.4 NMSA
9 1978 shall apply to examinations conducted under this section.

10 B. After the date stated in the notice of final
11 action for submission of a written explanation, the [~~secretary~~
12 ~~of~~] state ethics commission shall prepare an annual report of
13 any unresolved discrepancies found after examination of the
14 random sample provided for in Subsection A of this section. A
15 copy of this report shall be transmitted to the attorney
16 general for enforcement pursuant to the provisions of Section
17 1-19-36 NMSA 1978. This report is a public record open to
18 public inspection and subject to the retention and destruction
19 provisions set forth in Section 1-19-32 NMSA 1978."

20 SECTION 26. Section 1-19-34.4 NMSA 1978 (being Laws 1993,
21 Chapter 46, Section 15, as amended) is amended to read:

22 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--
23 INVESTIGATIONS--BINDING ARBITRATION--REFERRALS FOR
24 ENFORCEMENT.--

25 A. The [~~secretary of~~] state ethics commission shall

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1 advise and seek to educate all persons required to perform
2 duties under the Campaign Reporting Act of those duties. This
3 includes advising all known reporting individuals at least
4 annually of that act's deadlines for submitting required
5 reports and statements of exception. The [~~secretary of state~~]
6 commission, in consultation with the attorney general, shall
7 issue advisory opinions, when requested in writing to do so, on
8 matters concerning that act. All prescribed forms prepared
9 shall be clear and easy to complete.

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

21 C. The [~~secretary of~~] state ethics commission shall
22 at all times seek to ensure voluntary compliance with the
23 provisions of the Campaign Reporting Act. If the [~~secretary of~~
24 ~~state~~] commission determines that a provision of that act for
25 which a penalty may be imposed has been violated, the

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1 ~~[secretary of state]~~ commission shall by written notice set
2 forth the violation and the fine imposed and inform the
3 reporting individual that ~~[he]~~ the individual has ten working
4 days from the date of the letter to correct the matter and to
5 provide a written explanation, under penalty of perjury,
6 stating any reason why the violation occurred. If a timely
7 explanation is filed and the ~~[secretary of state]~~ commission
8 determines that good cause exists to waive the fine imposed,
9 the ~~[secretary of state]~~ commission may by a written notice of
10 final action partially or fully waive any fine imposed for any
11 late, incomplete or false report or statement of ~~[exception]~~ no
12 activity. A written notice of final action shall be sent by
13 certified mail.

14 D. Upon receipt of the notice of final action, the
15 person against whom the penalty has been imposed may protest
16 the ~~[secretary of state's]~~ state ethics commission's
17 determination, including an advisory opinion, by submitting on
18 a prescribed form a written request for binding arbitration to
19 the ~~[secretary of state]~~ commission within ten working days of
20 the date of the notice of final action. Any fine imposed shall
21 be due and payable within ten working days of the date of
22 notice of final action. No additional fine shall accrue
23 pending the issuance of the arbitration decision. Fines paid
24 pursuant to a notice of final action that are subsequently
25 reduced or dismissed shall be reimbursed with interest within

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1 ten working days after the filing of the arbitration decision
2 with the [~~secretary of state~~] commission. Interest on the
3 reduced or dismissed portion of the fine shall be the same as
4 the rate of interest earned by the [~~secretary of state's~~]
5 commission's escrow account to be established by the department
6 of finance and administration.

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

17 F. The arbitrator shall conduct the hearing within
18 thirty days of the request for arbitration. The arbitrator may
19 impose any penalty the [~~secretary of~~] state ethics commission
20 is authorized to impose. The arbitrator shall state the
21 reasons for [~~his~~] the arbitrator's decision in a written
22 document that shall be a public record. The decision shall be
23 final and binding. The decision shall be issued and filed with
24 the [~~secretary of state~~] commission within thirty days of the
25 conclusion of the hearing. Unless otherwise provided for in

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1 this section or by rule or regulation adopted by the [~~secretary~~
2 ~~of state~~] commission, the procedures for the arbitration shall
3 be governed by the Uniform Arbitration Act. No arbitrator
4 shall be subject to liability for actions taken pursuant to
5 this section.

6 G. The [~~secretary of~~] state ethics commission may
7 refer a matter to the attorney general or a district attorney
8 for a civil injunctive or other appropriate order or for
9 criminal enforcement."

10 SECTION 27. Section 1-19-34.6 NMSA 1978 (being Laws 1995,
11 Chapter 153, Section 19) is amended to read:

12 "1-19-34.6. CIVIL PENALTIES.--

13 A. If the [~~secretary of~~] state ethics commission
14 reasonably believes that a person committed, or is about to
15 commit, a violation of the Campaign Reporting Act, the
16 [~~secretary of state~~] commission shall refer the matter to the
17 attorney general or a district attorney for enforcement.

18 B. The attorney general or district attorney may
19 institute a civil action in district court for any violation of
20 the Campaign Reporting Act or to prevent a violation of that
21 act that involves an unlawful solicitation or the making or
22 acceptance of an unlawful contribution. An action for relief
23 may include a permanent or temporary injunction, a restraining
24 order or any other appropriate order, including a civil penalty
25 of two hundred fifty dollars (\$250) for each violation not to

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1 exceed five thousand dollars (\$5,000), and forfeiture of any
2 contribution received as a result of an unlawful solicitation
3 or unlawful contribution. Each unlawful solicitation and each
4 unlawful contribution made or accepted shall be deemed a
5 separate violation of the Campaign Reporting Act.

6 C. The attorney general or district attorney may
7 institute a civil action in district court if a violation has
8 occurred or to prevent a violation of any provision of the
9 Campaign Reporting Act other than that specified in Subsection
10 B of this section. Relief may include a permanent or temporary
11 injunction, a restraining order or any other appropriate order,
12 including an order for a civil penalty of fifty dollars
13 (\$50.00) for each violation not to exceed five thousand dollars
14 (\$5,000)."

15 SECTION 28. Section 1-19-34.7 NMSA 1978 (being Laws 2009,
16 Chapter 68, Section 1) is amended to read:

17 "1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES--
18 POLITICAL COMMITTEES.--

19 A. The following contributions by the following
20 persons are prohibited:

21 (1) from a person, not including a political
22 committee, to a:

23 (a) candidate for nonstatewide office,
24 including the candidate's campaign committee, in an amount that
25 will cause that person's total contributions to the candidate

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1 to exceed two thousand three hundred dollars (\$2,300) during
2 the primary election or two thousand three hundred dollars
3 (\$2,300) during the general election;

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

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

15 (2) from a political committee to:

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

22 (b) another political committee in an
23 amount that will cause that political committee's total
24 contributions to the political committee to exceed five
25 thousand dollars (\$5,000) during a primary election or five

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1 thousand dollars (\$5,000) during a general election.

2 B. All contributions made by a person to a
3 candidate, either directly or indirectly, including
4 contributions that are in any way earmarked or otherwise
5 directed through another person to a candidate, shall be
6 treated as contributions from the person to that candidate.

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

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

24 E. All contributions in excess of the limits
25 imposed by the provisions of this section shall be deposited in

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1 the public election fund upon a finding by the [~~secretary of~~
2 state ethics commission that the contribution limits have been
3 exceeded.

4 F. The limitation on contributions to a candidate
5 provided for in Subsection A of this section shall not apply to
6 a candidate's own contribution from the candidate's personal
7 funds to the candidate's own campaign.

8 G. For the purposes of this section:

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

13 (2) "general election" means the period
14 beginning on the day after the primary for the applicable
15 office and ending on the day of the general election for that
16 office."

17 SECTION 29. Section 1-19-35 NMSA 1978 (being Laws 1979,
18 Chapter 360, Section 11, as amended) is amended to read:

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

21 A. Except for the report required to be filed and
22 delivered the Thursday prior to the election and any
23 supplemental report, as required in Paragraph (5) of Subsection
24 B of Section 1-19-29 NMSA 1978, that is due prior to the
25 election, and subject to the provisions of Section 1-19-34.4

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1 NMSA 1978, if a statement of no activity or a report of
2 expenditures and contributions contains false or incomplete
3 information or is filed after any deadline imposed by the
4 Campaign Reporting Act, the responsible reporting individual or
5 political committee, in addition to any other penalties or
6 remedies prescribed by the Election Code, shall be liable for
7 and shall pay to the [~~secretary of~~] state ethics commission
8 fifty dollars (\$50.00) per day for each regular working day
9 after the time required by the Campaign Reporting Act for the
10 filing of statements of no activity or reports of expenditures
11 and contributions until the complete or true statement or
12 report is filed, up to a maximum of five thousand dollars
13 (\$5,000).

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

24 C. If a reporting individual fails to file or files
25 a late supplemental report of expenditures and contributions as

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1 required in Paragraph (5) of Subsection B of Section 1-19-29
2 NMSA 1978, the reporting individual or political committee
3 shall be liable for and pay to the [~~secretary of~~] state ethics
4 commission a penalty equal to the amount of each contribution
5 received or pledged after the Tuesday before the election that
6 was not timely filed.

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

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

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

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

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

10 SECTION 30. Section 1-19A-2 NMSA 1978 (being Laws 2003,
11 Chapter 14, Section 2, as amended) is amended to read:

12 "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

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

16 B. "certified candidate" means a candidate running
17 for a covered office who chooses to obtain financing pursuant
18 to the Voter Action Act and is certified as a Voter Action Act
19 candidate;

20 C. "commission" means the state ethics commission;

21 [~~G.~~] D. "contested election" means an election in
22 which there are more candidates for a position than the number
23 to be elected to that position;

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

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1 office of public regulation commissioner;

2 ~~[E-]~~ F. "election cycle" means the primary and
3 general elections for the same term of the same covered office,
4 beginning on the day after the last general election for the
5 office and ending with the general election; the primary
6 election cycle begins on the first day of the election cycle
7 and ends on the day of the primary election; the general
8 election begins on the day after the primary election and ends
9 on the day of the general election;

10 ~~[F-]~~ G. "fund" means the public election fund;

11 ~~[G-]~~ H. "noncertified candidate" means either a
12 candidate running for a covered office who does not choose to
13 participate in the Voter Action Act and who is not seeking to
14 be a certified candidate or a candidate who files a declaration
15 of intent to participate but who fails to qualify;

16 ~~[H-]~~ I. "qualifying contribution" means a donation
17 of five dollars (\$5.00) in the form of cash or a check or money
18 order payable to the fund in support of an applicant candidate
19 that is:

20 (1) made by a registered voter who is eligible
21 to vote for the covered office that the applicant candidate is
22 seeking;

23 (2) made during the designated qualifying
24 period and obtained through efforts made with the knowledge and
25 approval of the applicant candidate; and

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1 (3) acknowledged by a receipt that identifies
2 the contributor's name and residential address on forms
3 provided by the [~~bureau of elections~~] commission and that is
4 signed by the contributor, one copy of which is attached to the
5 list of contributors and sent to the [~~bureau of elections~~]
6 commission;

7 [~~F.~~] J. "qualifying period" means:

8 (1) for major party applicant candidates for
9 covered offices, the period beginning October 1 immediately
10 preceding the election year and ending at 5:00 p.m. on the
11 third Tuesday of March of the election year; and

12 (2) for independent and minor party
13 candidates, the period beginning February 1 of the election
14 year and ending that year at 5:00 p.m. on the filing date for
15 independent or minor party candidates for the office for which
16 the candidate is running;

17 [~~J. "secretary" means the secretary of state or the~~
18 ~~office of the secretary of state]~~ and

19 K. "seed money" means a contribution raised for the
20 primary purpose of enabling applicant candidates to collect
21 qualifying contributions and petition signatures."

22 SECTION 31. Section 1-19A-3 NMSA 1978 (being Laws 2003,
23 Chapter 14, Section 3) is amended to read:

24 "1-19A-3. TERMS OF PARTICIPATION--DECLARATION OF
25 INTENT.--

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1 A. A candidate choosing to obtain financing
2 pursuant to the Voter Action Act shall first file with the
3 [~~secretary~~] commission a declaration of intent to participate
4 in that act as an applicant candidate for a stated covered
5 office. The declaration of intent shall be filed with the
6 [~~secretary~~] commission prior to or during the qualifying period
7 according to forms and procedures developed by the [~~secretary~~]
8 commission.

9 B. An applicant candidate choosing to participate
10 in the Voter Action Act shall submit a declaration of intent
11 prior to collecting any qualifying contributions and make
12 explicit in the declaration that the candidate has complied
13 with and will continue to comply with that act's contribution
14 and expenditure limits and all other requirements set forth in
15 that act and rules issued by the [~~secretary~~] commission.

16 C. A candidate shall not be eligible to become an
17 applicant candidate if the candidate has accepted contributions
18 totaling five hundred dollars (\$500) or more or made
19 expenditures totaling five hundred dollars (\$500) or more
20 between the beginning of the qualifying period and filing a
21 declaration of intent."

22 **SECTION 32.** Section 1-19A-6 NMSA 1978 (being Laws 2003,
23 Chapter 14, Section 6) is amended to read:

24 "1-19A-6. CERTIFICATION.--

25 A. Upon receipt of a final submittal of qualifying

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1 contributions by an applicant candidate, the [~~secretary~~]
2 commission shall determine whether the applicant candidate has:

3 (1) signed and filed a declaration of intent
4 to obtain financing pursuant to the Voter Action Act in
5 accordance with the requirements of that act;

6 (2) submitted the appropriate number of
7 qualifying contributions;

8 (3) qualified as a candidate pursuant to other
9 applicable state election law;

10 (4) complied with seed money contribution and
11 expenditure restrictions; and

12 (5) otherwise met the requirements for
13 obtaining financing pursuant to the Voter Action Act.

14 B. The [~~secretary~~] commission shall certify
15 applicant candidates complying with the requirements of this
16 section as certified candidates as soon as possible and no
17 later than ten days after final submittal of qualifying
18 contributions and certification as a candidate pursuant to
19 other applicable state election law.

20 C. A certified candidate shall comply with all
21 requirements of the Voter Action Act after certification and
22 throughout the primary election and general election cycles. A
23 certified candidate who accepts public campaign finance funds
24 for the primary election shall comply with all the requirements
25 of the Voter Action Act for the remainder of the election cycle

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1 in question, even if [~~he~~] the certified candidate decides not
2 to accept such funds for the general election."

3 SECTION 33. Section 1-19A-7 NMSA 1978 (being Laws 2003,
4 Chapter 14, Section 7, as amended) is amended to read:

5 "1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS
6 TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

7 A. All money distributed to a certified candidate
8 shall be used for that candidate's campaign-related purposes in
9 the election cycle in which the money was distributed.

10 B. A certified candidate shall return to the fund
11 any amount that is unspent or unencumbered at the time that
12 person ceases to be a candidate before a primary or general
13 election for which the fund money was distributed.

14 C. A certified candidate shall limit total campaign
15 expenditures and debts to the amount of money distributed to
16 that candidate from the fund. A certified candidate shall not
17 accept contributions or loans from any other source except the
18 certified candidate's political party, as specified in Section
19 1-19A-8 NMSA 1978.

20 D. A certified candidate shall return to the
21 [~~secretary~~] commission, within thirty days after the primary
22 election, any amount that is unspent or unencumbered by the
23 date of the primary election for direct deposit into the fund.

24 E. A certified candidate shall return to the
25 [~~secretary~~] commission, within thirty days after the general

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1 election, any amount that is unspent or unencumbered by the
2 date of the general election for direct deposit into the fund."

3 SECTION 34. Section 1-19A-9 NMSA 1978 (being Laws 2003,
4 Chapter 14, Section 9) is amended to read:

5 "1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

6 A. The [~~secretary~~] commission shall publish
7 guidelines outlining permissible campaign-related expenditures.

8 B. Applicant candidates shall file a report listing
9 seed money contributions and expenditures with their
10 application for certification.

11 C. Applicant candidates shall file qualifying
12 contributions with the [~~secretary~~] commission during the
13 qualifying period according to procedures developed by the
14 [~~secretary~~] commission. In developing these procedures, the
15 [~~secretary~~] commission shall use existing campaign reporting
16 procedures and deadlines whenever practical.

17 D. Certified candidates shall report expenditures
18 according to the campaign reporting requirements specified in
19 the Election Code.

20 E. In addition to the campaign contribution and
21 expenditure reports specified in the Election Code, all
22 noncertified candidates who have as an opponent a certified
23 candidate shall report to the [~~secretary~~] commission ten days
24 before the primary and general elections the amount of money
25 spent by that noncertified candidate. This report shall

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1 include all previously unreported transactions through 5:00
2 p.m. two days before the report is due.

3 F. A person or political committee that makes
4 expenditures to influence a race involving a certified
5 candidate shall report to the [~~secretary~~] commission the amount
6 that person or political committee has spent. These reports
7 shall include all previously unreported transactions through
8 5:00 p.m. two days before the report is due, and shall be
9 submitted as follows:

10 (1) for the primary election, by 5:00 p.m. on
11 the second Monday in May, by 5:00 p.m. on the eleventh day
12 before the election and by 5:00 p.m. on the Thursday before the
13 election; and

14 (2) for the general election, by 5:00 p.m. the
15 first Tuesday in October, by 5:00 p.m. on the eleventh day
16 before the election and by 5:00 p.m. on the Thursday before the
17 election."

18 SECTION 35. Section 1-19A-10 NMSA 1978 (being Laws 2003,
19 Chapter 14, Section 10, as amended) is amended to read:

20 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

23 (1) financing the election campaigns of
24 certified candidates for covered offices;

25 (2) paying administrative and enforcement

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1 costs of the Voter Action Act; and

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

4 B. The state treasurer shall invest the funds as
5 other state funds are invested, and all income derived from the
6 fund shall be credited directly to the fund. Remaining
7 balances at the end of a fiscal year shall remain in the
8 [~~election~~] fund and not revert to the general fund.

9 C. Money received from the following sources shall
10 be deposited directly into the fund:

11 (1) qualifying contributions that have been
12 submitted to the [~~secretary~~] commission;

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

17 (3) money that remains unspent or unencumbered
18 by a certified candidate following the date of the primary
19 election;

20 (4) money that remains unspent or unencumbered
21 by a certified candidate following the date of the general
22 election;

23 (5) unspent seed money that cannot be used for
24 any other purpose;

25 (6) money distributed to the fund from funds

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1 received pursuant to the Uniform Unclaimed Property Act (1995);
2 and

3 (7) money appropriated by the legislature.

4 D. A subaccount shall be established in the fund,
5 and money in the subaccount shall only be used to pay the costs
6 of carrying out the provisions of the Voter Action Act related
7 to public regulation commission elections.

8 E. Three hundred thousand dollars (\$300,000) per
9 year shall be collected and deposited in the subaccount for
10 public regulation commission elections as follows:

11 (1) one hundred thousand dollars (\$100,000)
12 from inspection and supervision fees collected pursuant to
13 Section 62-8-8 NMSA 1978;

14 (2) one hundred thousand dollars (\$100,000)
15 from utility and carrier inspection fees collected pursuant to
16 Section 63-7-20 NMSA 1978; and

17 (3) one hundred thousand dollars (\$100,000)
18 from the [~~insurance~~] premium tax collected pursuant to Section
19 59A-6-2 NMSA 1978."

20 **SECTION 36.** Section 1-19A-11 NMSA 1978 (being Laws 2003,
21 Chapter 14, Section 11) is amended to read:

22 "1-19A-11. DETERMINATION OF FUND AMOUNT.--

23 A. By January 1, 2007, and every two years
24 thereafter, the [~~secretary~~] commission shall prepare and
25 provide to the legislature a report documenting, evaluating and

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1 making recommendations relating to the administration,
2 implementation and enforcement of the Voter Action Act.

3 B. In the report, the [~~secretary~~] commission shall
4 set out the revenues received to date, the expected costs to
5 the fund for the next election cycle and the amount of the
6 annual appropriation from the legislature that will be required
7 to meet this need."

8 SECTION 37. Section 1-19A-12 NMSA 1978 (being Laws 2003,
9 Chapter 14, Section 12) is amended to read:

10 "1-19A-12. TIMING OF FUND DISTRIBUTION.--

11 A. [~~Beginning with the election cycle that ends~~
12 ~~with the general election in 2006~~] The [~~secretary~~] commission
13 shall distribute money from the fund to certified candidates in
14 accordance with the provisions of Subsections B and C of this
15 section.

16 B. For a primary election certified candidate, the
17 [~~secretary~~] commission shall distribute the amount due to that
18 certified candidate for that covered office within one week of
19 certification.

20 C. For a candidate certified for the general
21 election, the [~~secretary~~] commission shall distribute the
22 amount due to that certified candidate for that covered office
23 within one week after the primary election or, for a minor
24 party or independent candidate, within one week after
25 certification of the candidate."

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1 SECTION 38. Section 1-19A-13 NMSA 1978 (being Laws 2003,
2 Chapter 14, Section 13, as amended) is amended to read:

3 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

4 A. By August 1 [2007] of each odd-numbered year,
5 the [~~secretary~~] commission shall determine the amount of money
6 to be distributed to each certified candidate for the election
7 cycle ending with the general election in 2008, based on the
8 type of election and the provisions of Subsections B through F
9 of this section.

10 B. For contested primary elections, the amount of
11 money to be distributed to a certified candidate is equal to
12 the following:

13 (1) for the office of public regulation
14 commissioner, twenty-five cents (\$.25) for each voter of the
15 candidate's party in the district of the office for which the
16 candidate is running; and

17 (2) for the office of justice of the supreme
18 court and judge of the court of appeals, fifteen cents (\$.15)
19 for each voter of the candidate's party in the state.

20 C. For uncontested primary elections, the amount of
21 money to be distributed to a certified candidate is equal to
22 fifty percent of the amount specified in Subsection B of this
23 section.

24 D. For contested general elections, the amount of
25 money to be distributed to a certified candidate is equal to

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1 the following:

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

5 (2) for the office of justice of the supreme
6 court and judge of the court of appeals, fifteen cents (\$.15)
7 for each voter in the state.

8 E. For uncontested general elections, except as
9 provided in Subsection I of this section, the amount of money
10 to be distributed to a certified candidate is equal to fifty
11 percent of the amount specified in Subsection D of this
12 section. If a general election race that is initially
13 uncontested later becomes contested because of the
14 qualification of an independent or minor party candidate to
15 appear on the ballot for that race, an additional amount of
16 money shall be distributed to the certified candidate to make
17 that candidate's total distribution amount equal to the amount
18 distributed pursuant to Subsection D of this section.

19 F. Once the certification for candidates for the
20 primary election has been completed, the [~~secretary~~] commission
21 shall calculate the total amount of money to be distributed in
22 the primary election cycle, based on the number of certified
23 candidates and the allocations specified in this section. The
24 [~~secretary~~] commission shall increase the total amount by
25 twenty percent to provide funds for additional matching funds

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1 in the primary election. The [~~secretary~~] commission shall also
2 prepare an estimate of the total amount of money that might be
3 distributed in the general election cycle. This estimate shall
4 be increased by twenty percent to provide funds for additional
5 matching funds in the general election. If the total amount to
6 be distributed in the primary election cycle, plus the added
7 twenty percent and the estimated total amount to be distributed
8 in the general election cycle, plus the added twenty percent,
9 all taken together, exceed the amount expected to be available
10 in the fund, the [~~secretary~~] commission shall allocate the
11 amount available between the primary and general election
12 cycles. This allocation shall be based on the ratio of the two
13 total amounts.

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

21 H. At least every two years after January 1, 2007,
22 the [~~secretary~~] commission shall evaluate and modify as
23 necessary the dollar values originally determined by
24 Subsections B through E of this section and shall consider and
25 account for inflation in the evaluations.

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1 I. No money shall be distributed to candidates in
2 judicial retention elections. No money shall be distributed to
3 judicial candidates in uncontested general elections, provided
4 that if a general election race that is initially uncontested
5 later becomes contested, the certified judicial candidate shall
6 receive a distribution in accordance with Subsection D of this
7 section."

8 SECTION 39. Section 1-19A-14 NMSA 1978 (being Laws 2003,
9 Chapter 14, Section 14, as amended) is amended to read:

10 "1-19A-14. MATCHING FUNDS.--When a certified or
11 noncertified candidate has one or more opponents who are
12 certified candidates and the candidate's campaign finance
13 report or group of reports shows that the sum of the
14 candidate's expenditures and obligations made, or funds raised
15 or borrowed, whichever is greater, alone or in conjunction with
16 expenditures made independently of the candidate to influence
17 the election on behalf of the candidate, exceeds the amount
18 distributed to an opposing certified candidate, the ~~[secretary]~~
19 commission shall issue immediately to any opposing certified
20 candidate an additional amount equivalent to the excess amount
21 reported by the opposing candidate. Total matching funds to a
22 certified candidate in an election are limited to twice the
23 amount originally distributed to that candidate pursuant to
24 Section 1-19A-13 NMSA 1978."

25 SECTION 40. Section 1-19A-15 NMSA 1978 (being Laws 2003,

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1 Chapter 14, Section 15) is amended to read:

2 "1-19A-15. ADMINISTRATION--~~[SECRETARY OF STATE]~~
3 COMMISSION--DUTIES.--

4 A. The [~~secretary~~] commission shall adopt rules to
5 ensure effective administration of the Voter Action Act.

6 B. The rules shall include procedures for:

- 7 (1) qualifications, certification and
8 disbursement of revenues and return of unspent fund revenues;
9 (2) obtaining qualifying contributions;
10 (3) certification of candidates;
11 (4) collection of revenues; and
12 (5) return of fund disbursements and other
13 money to the fund."

14 SECTION 41. Section 1-19A-16 NMSA 1978 (being Laws 2003,
15 Chapter 14, Section 16) is amended to read:

16 "1-19A-16. APPEALS.--The procedure for challenging a
17 certification decision by the [~~secretary~~] commission is as
18 follows:

19 A. a person aggrieved by a certification decision
20 or a decision regarding the distribution of matching funds may
21 appeal to the [~~secretary~~] commission within three days of the
22 decision. The appeal shall be in writing and shall set forth
23 the reasons for appeal;

24 B. within five days after an appeal is properly
25 made, and after due notice is given to the parties in dispute,

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1 the [~~secretary~~] commission shall hold a hearing [~~whereby~~] in
2 which:

3 (1) the appellant has the burden of providing
4 evidence to demonstrate that the [~~secretary's~~] commission's
5 decision was improper; and

6 (2) the [~~secretary~~] commission shall rule on
7 the appeal within three days after the completion of the
8 hearing;

9 C. the parties in dispute may appeal the decision
10 of the [~~secretary~~] commission by commencing an action in
11 district court; and

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

20 **SECTION 42.** Section 1-19A-17 NMSA 1978 (being Laws 2003,
21 Chapter 14, Section 17) is amended to read:

22 "1-19A-17. PENALTIES.--

23 A. In addition to other penalties that may be
24 applicable, a person who violates a provision of the Voter
25 Action Act is subject to a civil penalty of up to ten thousand

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1 dollars (\$10,000) per violation. In addition to a fine, a
2 certified candidate found in violation of that act may be
3 required to return to the fund all amounts distributed to the
4 candidate from the fund. If the [~~secretary~~] commission makes a
5 determination that a violation of that act has occurred, the
6 [~~secretary~~] commission shall impose a fine or transmit the
7 finding to the attorney general for prosecution. In
8 determining whether a certified candidate is in violation of
9 the expenditure limits of that act, the [~~secretary~~] commission
10 may consider as a mitigating factor any circumstances out of
11 the candidate's control.

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

18 SECTION 43. Section 2-11-2 NMSA 1978 (being Laws 1977,
19 Chapter 261, Section 2, as amended) is amended to read:

20 "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation
21 Act:

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

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1 B. "expenditure" means a payment, transfer or
2 distribution or obligation or promise to pay, transfer or
3 distribute any money or other thing of value but does not
4 include a lobbyist's own personal living expenses and the
5 expenses incidental to establishing and maintaining an office
6 in connection with lobbying activities or compensation paid to
7 a lobbyist by a lobbyist's employer;

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

11 D. "lobbying" means attempting to influence:

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

17 (2) an official action;

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

24 (1) an individual who appears on [~~his~~] the
25 individual's own behalf in connection with legislation or an

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1 official action;

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

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

16 (4) [~~any~~] a designated member of the staff of
17 an elected state official, provided the elected state official
18 keeps for public inspection and files with the [~~secretary of~~]
19 state ethics commission such designation;

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

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

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1 or an official action;

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

7 (8) a publisher, owner or employee of the
8 print media, radio or television, while gathering or
9 disseminating news or editorial comment to the general public
10 in the ordinary course of business;

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

14 G. "official action" means the action or nonaction
15 of a state official or state agency, board or commission acting
16 in a rulemaking proceeding;

17 H. "person" means an individual, partnership,
18 association, committee, federal, state or local governmental
19 entity or agency, however constituted, public or private
20 corporation or any other organization or group of persons who
21 are voluntarily acting in concert;

22 I. "political contribution" means a gift,
23 subscription, loan, advance or deposit of [~~any~~] money or other
24 thing of value, including the estimated value of an in-kind
25 contribution, that is made or received for the purpose of

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1 influencing a primary, general or statewide election, including
2 a constitutional or other question submitted to the voters, or
3 for the purpose of paying a debt incurred in any such election;

4 J. "prescribed form" means a form prepared and
5 prescribed by the [~~secretary of~~] state ethics commission;

6 K. "rulemaking proceeding" means a formal process
7 conducted by a state agency, board or commission for the
8 purpose of adopting a rule, regulation, standard, policy or
9 other requirement of general applicability and does not include
10 adjudicatory proceedings; and

11 L. "state public officer" means a person holding a
12 statewide office provided for in the constitution of New
13 Mexico."

14 SECTION 44. Section 2-11-3 NMSA 1978 (being Laws 1977,
15 Chapter 261, Section 3, as amended) is amended to read:

16 "2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--
17 MODIFICATION TO STATEMENT.--

18 A. In the month of January prior to each regular
19 session or before any service covered by the Lobbyist
20 Regulation Act commences, any individual who is initially
21 employed or retained as a lobbyist shall register with the
22 [~~secretary of~~] state ethics commission by paying an annual
23 filing fee of twenty-five dollars (\$25.00) for each of the
24 lobbyist's employers and by filing a single registration
25 statement under oath on a prescribed form showing:

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1 (1) the lobbyist's full name, permanent
2 business address and business address while lobbying; and

3 (2) the name and address of each of the
4 lobbyist's employers.

5 B. No registration fee shall be required of
6 individuals receiving only reimbursement of personal expenses
7 and no other compensation or salary for lobbying. No
8 expenditure statement required by Section 2-11-6 NMSA 1978
9 shall be required if the lobbyist anticipates making or
10 incurring and makes or incurs no expenditures or political
11 contributions under Section 2-11-6 NMSA 1978. The lobbyist
12 shall indicate in [~~his~~] the lobbyist's registration statement
13 whether those circumstances apply to [~~him~~] the lobbyist.

14 C. For each employer listed in Paragraph (2) of
15 Subsection A of this section, the lobbyist shall file the
16 following information:

17 (1) a full disclosure of the sources of funds
18 used for lobbying;

19 (2) a written statement from each of the
20 lobbyist's employers authorizing [~~him~~] the lobbyist to lobby on
21 the employer's behalf;

22 (3) a brief description of the matters in
23 reference to which the service is to be rendered; and

24 (4) the name and address of the person, if
25 other than the lobbyist or [~~his~~] the lobbyist's employer, who

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1 will have custody of the accounts, bills, receipts, books,
2 papers and documents required to be kept under the provisions
3 of the Lobbyist Regulation Act.

4 D. For each succeeding year that an individual is
5 employed or retained as a lobbyist by the same employer, and
6 for whom all the information disclosed in the initial
7 registration statement remains substantially the same, the
8 lobbyist shall file a simple annual registration renewal in
9 January and pay the twenty-five-dollar (\$25.00) filing fee for
10 each of the lobbyist's employers together with a short,
11 abbreviated prescribed form for renewal.

12 E. Whenever there is a modification of the facts
13 required to be set forth by this section or there is a
14 termination of the lobbyist's employment as a lobbyist before
15 the end of the calendar year, the lobbyist shall notify the
16 [~~secretary of~~] state ethics commission within one month of such
17 occurrence and shall furnish full information concerning the
18 modification or termination. If the lobbyist's employment
19 terminates at the end of a calendar year, no separate
20 termination report need be filed."

21 SECTION 45. Section 2-11-6 NMSA 1978 (being Laws 1977,
22 Chapter 261, Section 6, as amended) is amended to read:

23 "2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--
24 REPORTING PERIODS.--

25 A. Each lobbyist or lobbyist's employer who makes

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1 or incurs expenditures or political contributions for the
2 benefit of or in opposition to a state legislator or candidate
3 for the state legislature, a state public officer or candidate
4 for state public office, a board or commission member or state
5 employee who is involved in an official action affecting the
6 lobbyist's employer or in support of or in opposition to a
7 ballot issue or pending legislation or official action shall
8 file an expenditure report with the [~~secretary of~~] state ethics
9 commission on a prescribed form or in an electronic format
10 approved by the [~~secretary of state~~] commission. The
11 expenditure report shall include a sworn statement that sets
12 forth:

13 (1) the cumulative total of the expenditures
14 made or incurred, separated into categories that identify the
15 total separate amounts spent on:

- 16 (a) meals and beverages;
- 17 (b) other entertainment expenditures;
- 18 (c) gifts; and
- 19 (d) other expenditures;

20 (2) each political contribution made,
21 identified by amount, date and name of the candidate or ballot
22 issue supported or opposed; and

23 (3) the names, addresses and occupations of
24 other contributors and the amounts of their separate political
25 contributions if the lobbyist or lobbyist's employer delivers

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1 directly or indirectly separate contributions from those
2 contributors in excess of five hundred dollars (\$500) in the
3 aggregate for each election to a candidate, a campaign
4 committee or anyone authorized by a candidate to receive funds
5 on the candidate's behalf.

6 B. If the expenditure report is filed
7 electronically, the report shall be electronically
8 authenticated by the lobbyist or the lobbyist's employer using
9 an electronic signature as prescribed by the [~~secretary of~~]
10 state ethics commission in conformance with the Electronic
11 Authentication of Documents Act and the Uniform Electronic
12 Transactions Act. For the purposes of the Lobbyist Regulation
13 Act, a report that is electronically authenticated in
14 accordance with the provisions of this subsection shall be
15 deemed to have been subscribed and sworn to by the lobbyist or
16 the lobbyist's employer that is required to file the report.

17 C. In identifying expenditures pursuant to the
18 provisions of Paragraph (1) of Subsection A of this section,
19 any individual expenditure that is more than the threshold
20 level established in the Internal Revenue Code of 1986, as
21 amended, that must be reported separately to claim a business
22 expense deduction, as published by the [~~secretary of~~] state
23 ethics commission, shall be identified by amount, date,
24 purpose, type of expenditure and name of the person who
25 received or was benefited by the expenditure; provided, in the

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1 case of special events, including parties, dinners, athletic
2 events, entertainment and other functions, to which all members
3 of the legislature, to which all members of either house or any
4 legislative committee or to which all members of a board or
5 commission are invited, expenses need not be allocated to each
6 individual who attended, but the date, location, name of the
7 body invited and total expenses incurred shall be reported.

8 D. The reports required pursuant to the provisions
9 of the Lobbyist Regulation Act shall be filed:

10 (1) by January 15 for all expenditures and
11 political contributions made or incurred during the preceding
12 year and not previously reported;

13 (2) within forty-eight hours for each separate
14 expenditure made or incurred during a legislative session that
15 was for five hundred dollars (\$500) or more; and

16 (3) by May 1 for all expenditures and
17 political contributions made or incurred through April 25 of
18 the current year and not previously reported.

19 E. A lobbyist's personal living expenses and the
20 expenses incidental to establishing and maintaining an office
21 in connection with lobbying activities or compensation paid to
22 a lobbyist by a lobbyist's employer need not be reported.

23 F. A lobbyist or lobbyist's employer shall obtain
24 and preserve all records, accounts, bills, receipts, books,
25 papers and documents necessary to substantiate the financial

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1 statements required to be made under the Lobbyist Regulation
2 Act for a period of two years from the date of filing of the
3 report containing such items. When the lobbyist is required
4 under the terms of the lobbyist's employment to turn over any
5 such records to the lobbyist's employer, responsibility for the
6 preservation of them as required by this section and the filing
7 of reports required by this section shall rest with the
8 employer. Such records shall be made available to the
9 [~~secretary of~~] state ethics commission or attorney general upon
10 written request.

11 G. [~~Any~~] A lobbyist's employer who also engages in
12 lobbying shall comply with the provisions of the Lobbyist
13 Regulation Act.

14 H. An organization of two or more persons,
15 including an individual who [~~holds himself out~~] makes any
16 representation as being an organization, that within one
17 calendar year expends funds in excess of two thousand five
18 hundred dollars (\$2,500) not otherwise reported under the
19 Lobbyist Regulation Act to conduct an advertising campaign for
20 the purpose of lobbying shall register with the [~~secretary of~~]
21 state ethics commission within forty-eight hours after
22 expending two thousand five hundred dollars (\$2,500). Such
23 registration shall indicate the name of the organization and
24 the names, addresses and occupations of any of its principals,
25 organizers or officers and shall include the name of any

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1 lobbyist or lobbyist's employer who is a member of the
2 organization. Within fifteen days after a legislative session,
3 the organization shall report the contributions, pledges to
4 contribute, expenditures and commitments to expend for the
5 advertising campaign for the purpose of lobbying, including the
6 names, addresses and occupations of the contributors, to the
7 [~~secretary of~~] state ethics commission on a prescribed form."

8 SECTION 46. Section 2-11-7 NMSA 1978 (being Laws 1977,
9 Chapter 261, Section 7, as amended) is amended to read:

10 "2-11-7. REGISTRATION AND EXPENDITURE STATEMENT--
11 PRESERVATION AS PUBLIC RECORD.--Each registration and
12 expenditure statement as required by the Lobbyist Regulation
13 Act shall be preserved by the [~~secretary of~~] state ethics
14 commission for a period of two years from the date of filing as
15 a public record, open to public inspection at any reasonable
16 time. Unless an action or prosecution is pending that requires
17 preserving the report, it may be destroyed two years after the
18 date of filing."

19 SECTION 47. Section 2-11-8.2 NMSA 1978 (being Laws 1977,
20 Chapter 261, Section 4, as amended) is amended to read:

21 "2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--
22 BINDING ARBITRATION--CIVIL PENALTIES.--

23 A. The [~~secretary of~~] state ethics commission shall
24 advise and seek to educate all persons required to perform
25 duties pursuant to the Lobbyist Regulation Act of those duties.

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

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

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

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

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

22 E. An arbitration hearing shall be conducted by a
23 single arbitrator selected within ten days by the person
24 against whom the penalty has been imposed from a list of five
25 arbitrators provided by the [~~secretary of~~] state [~~Neither the~~

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1 ~~secretary of state nor~~ ethics commission. A person subject to
2 the Lobbyist Regulation Act, Campaign Reporting Act or
3 Financial Disclosure Act ~~may~~ shall not serve as an
4 arbitrator. Arbitrators shall be considered to be independent
5 contractors, not public officers or employees, and shall not be
6 paid per diem and mileage.

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

20 G. Any person who files a report after the deadline
21 imposed by the Lobbyist Regulation Act, or any person who files
22 a false or incomplete report, shall be liable for and shall pay
23 to the ~~[secretary of]~~ state ethics commission fifty dollars
24 (\$50.00) per day for each regular working day after the time
25 required for the filing of the report until the complete report

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1 is filed, up to a maximum of five thousand dollars (\$5,000).

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

6 SECTION 48. 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, any agency or authority

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1 of any county, municipality, district or ~~[any]~~ 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 ~~[for~~
5 ~~the purpose of]~~ taking any action within the authority of or
6 the delegated authority of any board, commission or other
7 policymaking body, are declared to be public meetings open to
8 the public at all times, except as otherwise provided in the
9 constitution of New Mexico or the Open Meetings Act. No public
10 meeting once convened that is otherwise required to be open
11 pursuant to the Open Meetings Act shall be closed or dissolved
12 into small groups or committees for the purpose of permitting
13 the closing of the 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, the agenda shall be available to the public at least
25 twenty-four hours prior to the meeting. Except for emergency

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1 matters, a public body shall take action only on items
2 appearing on the agenda. For purposes of this subsection, ~~[an]~~
3 "emergency" refers to unforeseen circumstances that, if not
4 addressed immediately by the public body, will likely result in
5 injury or damage to persons or property or substantial
6 financial loss to the public body.

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

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

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

25 (2) limited personnel matters; provided that

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1 for purposes of the Open Meetings Act, "limited personnel
2 matters" means the discussion of hiring, promotion, demotion,
3 dismissal, assignment or resignation of or the investigation or
4 consideration of complaints or charges against any individual
5 public employee; provided further that this [~~subsection~~]
6 paragraph is not to be construed as to exempt final actions on
7 personnel from being taken at open public meetings, nor does it
8 preclude an aggrieved public employee from demanding a public
9 hearing. Judicial candidates interviewed by any commission
10 shall have the right to demand an open interview;

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

22 (4) the discussion of personally identifiable
23 information about any individual student, unless the student
24 [~~his~~] or the student's parent or guardian requests otherwise;

25 (5) meetings for the discussion of bargaining

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1 strategy preliminary to collective bargaining negotiations
2 between the policymaking body and a bargaining unit
3 representing the employees of that policymaking body and
4 collective bargaining sessions at which the policymaking body
5 and the representatives of the collective bargaining unit are
6 present;

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

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

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

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

25 (10) that portion of a meeting of the gaming

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1 control board dealing with information made confidential
2 pursuant to the provisions of the Gaming Control Act; and
3 (11) meetings of the state ethics commission
4 relating to complaints or investigations of alleged ethics
5 violations.

6 I. If any meeting is closed pursuant to the
7 exclusions contained in Subsection H of this section [~~the~~
8 ~~closure~~]:

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

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

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1 J. Following completion of any closed meeting, the
2 minutes of the open meeting that was closed or the minutes of
3 the next open meeting if the closed meeting was separately
4 scheduled shall state that the matters discussed in the closed
5 meeting were limited only to those specified in the motion for
6 closure or in the notice of the separate closed meeting. This
7 statement shall be approved by the public body under Subsection
8 G of this section as part of the minutes."

9 SECTION 49. Section 10-16-4.2 NMSA 1978 (being Laws
10 2007, Chapter 362, Section 10) is amended to read:

11 "10-16-4.2. DISCLOSURE OF OUTSIDE EMPLOYMENT.--A public
12 officer or employee shall disclose in writing to the supervisor
13 of the officer or employee, or in the event there is no
14 supervisor, to the [~~secretary of~~] state ethics commission, all
15 employment engaged in by the officer or employee other than the
16 employment with the state."

17 SECTION 50. Section 10-16-11 NMSA 1978 (being Laws 1967,
18 Chapter 306, Section 11, as amended) is amended to read:

19 "10-16-11. CODES OF CONDUCT.--

20 A. By January 1, 1994, each elected statewide
21 executive branch public officer shall adopt a general code of
22 conduct for employees subject to [~~his~~] the officer's control.
23 The New Mexico legislative council shall adopt a general code
24 of conduct for all legislative branch employees. The general
25 codes of conduct shall be based on the principles set forth in

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1 the Governmental Conduct Act.

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

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

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1 programs to advise public officers and employees about the
2 codes of conduct. All codes shall be filed with the [~~secretary~~
3 ~~of~~] state ethics commission and are open to public inspection.

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

7 E. All legislators shall attend a minimum of two
8 hours of ethics continuing education and training biennially."

9 SECTION 51. Section 10-16-13.1 NMSA 1978 (being Laws
10 1993, Chapter 46, Section 35) is amended to read:

11 "10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

12 A. The [~~secretary of~~] state ethics commission shall
13 advise and seek to educate all persons required to perform
14 duties under the Governmental Conduct Act of those duties.
15 This includes advising all those persons at least annually of
16 that act's ethical principles.

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

24 SECTION 52. Section 10-16-14 NMSA 1978 (being Laws 1967,
25 Chapter 306, Section 14, as amended) is amended to read:

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1 "10-16-14. ENFORCEMENT PROCEDURES.--

2 A. The [~~secretary of~~] state ethics commission may
3 refer suspected violations of the Governmental Conduct Act to
4 the attorney general, district attorney or appropriate state
5 agency or legislative body for enforcement. If a suspected
6 violation involves the office of the [~~secretary of~~] state
7 ethics commission, the attorney general may enforce that act.
8 If a suspected violation involves the office of the attorney
9 general, a district attorney may enforce that act.

10 B. Violation of the provisions of the Governmental
11 Conduct Act by any legislator is grounds for discipline by the
12 appropriate legislative body.

13 C. If the attorney general determines that there is
14 sufficient cause to file a complaint against a public officer
15 removable only by impeachment, [~~he~~] the attorney general shall
16 refer the matter to the house of representatives of the
17 legislature. If within thirty days after the referral the
18 house of representatives has neither formally declared that the
19 charges contained in the complaint are not substantial nor
20 instituted hearings on the complaint, the attorney general
21 shall make public the nature of the charges, but [~~he~~] the
22 attorney general shall make clear that the merits of the
23 charges have never been determined. Days during which the
24 legislature is not in session shall not be included in
25 determining the thirty-day period.

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1 D. Violation of the provisions of the Governmental
2 Conduct Act by any public officer or employee, other than those
3 covered by Subsection C of this section, is grounds for
4 discipline, including dismissal, demotion or suspension.
5 Complaints against executive branch employees may be filed with
6 the agency head and reviewed pursuant to the procedures
7 provided in the Personnel Act. Complaints against legislative
8 branch employees may be filed with and reviewed pursuant to
9 procedures adopted by the New Mexico legislative council.
10 Complaints against judicial branch employees may be filed and
11 reviewed pursuant to the procedures provided in the judicial
12 personnel rules.

13 E. Subject to the provisions of this section, the
14 provisions of the Governmental Conduct Act may be enforced by
15 the attorney general. Except as regards legislators or
16 statewide elected officials, a district attorney in the county
17 where a person who allegedly violated the provisions resides or
18 where ~~[a]~~ an alleged violation occurred may also enforce that
19 act. Enforcement actions may include seeking civil injunctive
20 or other appropriate orders."

21 SECTION 53. 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.--

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

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1 commit, a violation of the Governmental Conduct Act, the
2 [~~secretary of state~~] commission shall refer the matter to the
3 attorney general or 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 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 54. Section 10-16A-3 NMSA 1978 (being Laws 1993,
13 Chapter 46, Section 41, as amended) is amended to read:

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

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

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1 filing officer shall forward a copy of ~~[the]~~ each financial
2 disclosure statement to the ~~[secretary of]~~ state ethics
3 commission within seventy-two hours of its filing.

4 B. A state agency head or official whose
5 appointment to a board or commission is subject to confirmation
6 by the senate shall file with the ~~[secretary of]~~ state ethics
7 commission a financial disclosure statement within thirty days
8 of appointment and during the month of January every year
9 thereafter that ~~[he]~~ the state agency head or official holds
10 public office.

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

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

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

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

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

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

25 (5) all memberships held by the reporting

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1 individual and [~~his~~] the reporting individual's spouse on
2 boards of for-profit businesses in New Mexico;

3 (6) all New Mexico professional licenses held;

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

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

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

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

22 E. The financial disclosure statements filed
23 pursuant to this section are public records open to public
24 inspection during regular office hours and shall be retained by
25 the state for five years from the date of filing.

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

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

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

17 SECTION 55. Section 10-16A-4 NMSA 1978 (being Laws 1993,
18 Chapter 46, Section 42) is amended to read:

19 "10-16A-4. DISCLOSURES BY CERTAIN PUBLIC OFFICERS OR
20 EMPLOYEES OF STATE AGENCIES--CONDITION OF EMPLOYMENT.--

21 A. Every employee who is not otherwise required to
22 file a financial disclosure statement under the Financial
23 Disclosure Act and who has a financial interest that ~~he~~ the
24 employee believes or has reason to believe may be affected by
25 ~~his~~ the employee's official act or actions of the state

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1 agency by which ~~[he]~~ the employee is employed shall disclose
2 the nature and extent of that interest. The disclosures shall
3 be made in writing to the ~~[secretary of]~~ state ethics
4 commission before entering state employment and during the
5 month of January every year thereafter.

6 B. Every public officer who is not otherwise
7 required to file a financial disclosure statement under the
8 Financial Disclosure Act and who has a financial interest that
9 ~~[he]~~ the public officer believes or has reason to believe may
10 be affected by ~~[his]~~ the public officer's official act or
11 actions of the board or commission to which ~~[he]~~ the public
12 officer is appointed shall disclose the nature and extent of
13 that interest. The disclosures shall be made in writing to the
14 ~~[secretary of]~~ state ethics commission before taking office and
15 during the month of January every year thereafter.

16 C. The information on the disclosures shall be made
17 available by the ~~[secretary of]~~ state ethics commission for
18 inspection to any ~~[citizen of this]~~ resident of the state.

19 D. The filing of disclosures pursuant to this
20 section is a condition of entering upon and continuing in state
21 employment or, for persons subject to Subsection B of this
22 section, of holding public office."

23 SECTION 56. Section 10-16A-5 NMSA 1978 (being Laws 1993,
24 Chapter 46, Section 43) is amended to read:

25 "10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

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1 A. The [~~secretary of~~] state ethics commission shall
2 advise and seek to educate all persons required to perform
3 duties under the Financial Disclosure Act of those duties.
4 This includes providing timely advance notice of the required
5 financial disclosure statement and preparing forms that are
6 clear and easy to complete.

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

15 **SECTION 57.** Section 10-16A-6 NMSA 1978 (being Laws 1993,
16 Chapter 46, Section 44, as amended) is amended to read:

17 "10-16A-6. INVESTIGATIONS--BINDING ARBITRATION--FINES--
18 ENFORCEMENT.--

19 A. The [~~secretary of~~] state ethics commission may
20 conduct thorough examinations of statements and initiate
21 investigations to determine whether the Financial Disclosure
22 Act has been violated. Any person who believes that act has
23 been violated may file a written complaint with the [~~secretary~~
24 ~~of state~~] commission. The [~~secretary of state~~] commission
25 shall adopt procedures for processing complaints and

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1 notifications of violations.

2 B. If the [~~secretary of~~] state ethics commission
3 determines that a violation has occurred for which a penalty
4 should be imposed, the [~~secretary of state~~] commission shall so
5 notify the person charged and impose the penalty. If the
6 person charged disputes the [~~secretary of state's~~] commission's
7 determination, the person charged may request binding
8 arbitration.

9 C. The arbitration decision shall be decided by a
10 single arbitrator selected within ten days by the person
11 against whom the penalty has been imposed from a list of five
12 arbitrators provided by the [~~secretary of~~] state ethics
13 commission. No arbitrator may be a person subject to the
14 Financial Disclosure Act, Campaign Reporting Act or Lobbyist
15 Regulation Act. Arbitrators shall be considered to be
16 independent contractors, not public officers or employees, and
17 shall not be paid per diem and mileage.

18 D. The arbitrator may take any action the
19 [~~secretary of~~] state ethics commission is authorized to take.
20 The arbitrator shall state the reasons for [~~his~~] the decision
21 in a written document that shall be a public record. The
22 decision shall be final and binding. The decision shall be
23 issued within thirty days of the conclusion of the hearing.
24 Unless otherwise provided for in this section, or by rule or
25 regulation adopted by the [~~secretary of state~~] commission, the

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1 procedures for the arbitration shall be governed by the Uniform
2 Arbitration Act. No arbitrator shall be subject to liability
3 for actions taken pursuant to this section.

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

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

17 SECTION 58. Section 10-16A-8 NMSA 1978 (being Laws 1995,
18 Chapter 153, Section 25) is amended to read:

19 "10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--

20 A. If the [~~secretary of~~] state ethics commission
21 reasonably believes that a person committed, or is about to
22 commit, a violation of the Financial Disclosure Act, the
23 [~~secretary of state~~] commission shall refer the matter to the
24 attorney general or a district attorney for enforcement.

25 B. The attorney general or a district attorney may

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1 institute a civil action in district court if a violation has
2 occurred or to prevent a violation of any provision of the
3 Financial Disclosure Act. Relief may include a permanent or
4 temporary injunction, a restraining order or any other
5 appropriate order, including an order for a civil penalty of
6 two hundred fifty dollars (\$250) for each violation not to
7 exceed five thousand dollars (\$5,000)."

8 SECTION 59. Section 10-16B-3 NMSA 1978 (being Laws 2007,
9 Chapter 226, Section 3) is amended to read:

10 "10-16B-3. LIMITATION ON GIFTS.--

11 A. A state officer or employee or a candidate for
12 state office, or that person's family, shall not knowingly
13 accept from a restricted donor, and a restricted donor shall
14 not knowingly donate to a state officer or employee or a
15 candidate for state office, or that person's family, a gift of
16 a market value greater than two hundred fifty dollars (\$250).

17 B. A lobbyist registered with the [~~secretary of~~]
18 state ethics commission, the lobbyist's employer or a
19 government contractor shall not donate gifts of an aggregate
20 market value greater than one thousand dollars (\$1,000) in a
21 calendar year to any one state officer or employee or to any
22 one candidate for state office.

23 C. A state officer or employee shall not solicit
24 gifts for a charity from a business or corporation regulated
25 by the state agency for which the state officer or employee

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1 works and shall not otherwise solicit donations for a charity
2 in such a manner that it appears that the purpose of the donor
3 in making the gift is to influence the state officer or
4 employee in the performance of an official duty."

5 SECTION 60. TEMPORARY PROVISION--REPORT ON EXTENSION OF
6 STATE ETHICS COMMISSION JURISDICTION TO LOCAL GOVERNMENTS.--By
7 January 1, 2015, the state ethics commission shall submit a
8 report to the legislature and the governor regarding the
9 extension of commission jurisdiction to elected and appointed
10 officials and employees of political subdivisions of the state.
11 The report shall include and make recommendations on:

12 A. a detailed plan formulated by the commission for
13 implementation of an extension of its jurisdiction, including a
14 proposed time line;

15 B. the estimated number of additional employees and
16 the amount and type of resources needed by the commission to
17 carry out its powers and duties if its jurisdiction were
18 extended;

19 C. estimated budget increases and the estimated
20 annual budget for the commission if its jurisdiction were
21 extended; and

22 D. any changes needed to existing law.

23 SECTION 61. TEMPORARY PROVISION--TRANSFER OF PROPERTY,
24 CONTRACTS AND REFERENCES IN LAW AND RULES.--On January 1, 2014:

25 A. all functions, appropriations, money, records,

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1 property, equipment and supplies of the office of the secretary
2 of state used in the administration of the following acts are
3 transferred to the state ethics commission:

- 4 (1) the Campaign Reporting Act;
- 5 (2) the Voter Action Act;
- 6 (3) the Lobbyist Regulation Act;
- 7 (4) the Governmental Conduct Act;
- 8 (5) the Financial Disclosure Act; and
- 9 (6) the Gift Act;

10 B. all contracts, grants, agreements and other
11 obligations of the secretary of state relating to
12 administration of the acts listed in Subsection A of this
13 section are transferred to and binding on the state ethics
14 commission;

15 C. all references in law to the secretary of
16 state relating to administration of the acts listed in
17 Subsection A of this section shall be deemed to be references
18 to the state ethics commission; and

19 D. all rules of the secretary of state pertaining
20 to administration of the acts listed in Subsection A of this
21 section shall be considered rules of the state ethics
22 commission.

23 **SECTION 62. APPROPRIATION.**--Two hundred thousand dollars
24 (\$200,000) is appropriated from the general fund to the state
25 ethics commission for expenditure in fiscal year 2014 to carry

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1 out the provisions of the State Ethics Commission Act. Any
2 unexpended or unencumbered balance remaining at the end of
3 fiscal year 2014 shall revert to the general fund.

4 SECTION 63. SEVERABILITY.--If any part or application of
5 this act is held invalid, the remainder or its application to
6 other situations or persons shall not be affected.

7 SECTION 64. APPLICABILITY.--The provisions of the State
8 Ethics Commission Act apply to conduct that occurs on or after
9 January 1, 2014.

10 SECTION 65. EFFECTIVE DATE.--

11 A. The effective date of the provisions of Sections
12 1 through 7, 12 through 16, 48 and 60 through 65 of this act is
13 July 1, 2013.

14 B. The effective date of the provisions of Sections
15 8 through 11, 17 through 47 and 49 through 59 of this act is
16 January 1, 2014.