

1 AN ACT

2 RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
3 AMENDING SECTIONS OF THE ELECTION CODE TO REMOVE PUBLIC
4 REGULATION COMMISSIONERS AS ELECTED OFFICIALS; REPEALING THE
5 PUBLIC REGULATION COMMISSION APPORTIONMENT ACT; RECOMPILING
6 THE PUBLIC REGULATION COMMISSION ACT AND AMENDING PROVISIONS
7 OF THAT ACT; CREATING THE PUBLIC REGULATION COMMISSION
8 NOMINATING COMMITTEE; PROVIDING PROCEDURES FOR THE PUBLIC
9 REGULATION COMMISSION NOMINATING COMMITTEE; PROVIDING AGE AND
10 SERVICE REQUIREMENTS FOR NORMAL RETIREMENT OF APPOINTED
11 PUBLIC REGULATION COMMISSION COMMISSIONERS; SEPARATING THE
12 FIRE MARSHAL DIVISION FROM THE PUBLIC REGULATION COMMISSION;
13 CREATING THE STATE FIRE MARSHAL'S OFFICE IN THE HOMELAND
14 SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT; CREATING THE
15 FIRE SERVICES COUNCIL; AMENDING STATUTORY REFERENCES;
16 TRANSFERRING PERSONNEL, FUNCTIONS, MONEY, APPROPRIATIONS,
17 OTHER PROPERTY AND CONTRACTUAL OBLIGATIONS; CHANGING
18 REFERENCES IN LAW.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. Section 1-3-12 NMSA 1978 (being Laws 1984
22 (1st S.S.), Chapter 3, Section 4, as amended) is amended to
23 read:

24 "1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

25 A. Before each federal decennial census, every

1 precinct shall comply with the requirements of Section 1-3-1
2 NMSA 1978, and if necessary its boundary shall be adjusted to
3 coincide with a feature or a boundary that is:

4 (1) shown on the standard base maps
5 developed pursuant to Subsection B of this section;

6 (2) a designated census block boundary on
7 the proposed federal PL 94-171 2020 census block maps; or

8 (3) approved by the secretary of state and
9 the United States census bureau.

10 B. Prior to commencement of the federal decennial
11 census, the secretary of state shall have prepared and shall
12 furnish to each county clerk standard base maps of the
13 county. The standard base map for urban and nonurban areas
14 of the county shall, as nearly as practical, show:

15 (1) all state and federal highways;

16 (2) all numbered and named county roads that
17 have been certified to the department of transportation;

18 (3) all military installation boundaries and
19 federal and state prison boundaries;

20 (4) all major railroad lines;

21 (5) federal, state and county political
22 boundaries, municipal boundaries and school district
23 boundaries;

24 (6) all streets within urban areas; and

25 (7) other major terrain features, such as

1 flowing rivers and streams, arroyos, power lines, pipelines,
2 roads, trails and ridgelines and other acceptable census
3 block boundaries.

4 C. The board of county commissioners, upon receipt
5 of the standard base maps from the secretary of state and
6 upon the recommendation of the county clerk, shall:

7 (1) adjust all precinct boundaries to
8 coincide with numbered or named street boundaries or suitable
9 visible terrain features shown on the standard base map;
10 provided that the precincts shall be composed of contiguous
11 and compact areas, and state, county, municipal, school
12 district and other special district or political boundary
13 lines shall serve as precinct boundaries whenever possible;
14 and

15 (2) upon the completion of the precinct
16 boundary adjustments as required in this section, indicate on
17 the standard base maps the boundaries for both urban and
18 nonurban precincts and, together with a written description
19 of the precincts, shall send an electronic copy to the
20 secretary of state for approval.

21 D. The precincts shown upon the standard base maps
22 submitted pursuant to the provisions of this section and as
23 revised and approved by the secretary of state pursuant to
24 the Precinct Boundary Adjustment Act shall become the
25 official precincts of each county for the 2021 redistricting.

1 For the 2022 and subsequent statewide elections, changes in
2 precincts shall be made in accordance with the provisions of
3 Chapter 1, Article 3 NMSA 1978.

4 E. In the same calendar year in which the state
5 receives the results of a federal decennial census, the state
6 legislature shall redistrict federal representative
7 districts, each chamber of the legislature, public education
8 commission districts and any other state districts requiring
9 redistricting.

10 F. In the calendar year following the receipt of
11 the results of a federal decennial census, each local public
12 body subject to districting shall create or redraw districts
13 for the local public body. A local public body, when
14 creating or redrawing districts, shall not split a precinct
15 into two or more districts for any elected office unless
16 necessary to comply with federal law or to preserve
17 communities of interest."

18 SECTION 2. Section 1-8-2 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 152, as amended) is amended to read:

20 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
21 CONVENTION--DESIGNATED NOMINEES.--

22 A. If the rules of a minor political party require
23 nomination by political convention:

24 (1) the chair and secretary of the state
25 political convention shall certify to the secretary of state

1 the names of their party's nominees for United States
2 senator, United States representative, all elective state
3 offices, legislative offices elected from multicounty
4 districts, all elective judicial officers in the judicial
5 department and all offices representing a district composed
6 of more than one county; and

7 (2) the chair and secretary of the county
8 political convention shall certify to the county clerk the
9 names of their party's nominees for elected county offices
10 and for legislative offices elected from a district located
11 wholly within one county or that is composed of only one
12 county.

13 B. The names certified to the secretary of state
14 shall be filed on the twenty-third day following the primary
15 election in the year of the general election and shall be
16 accompanied by nominating petitions containing the signatures
17 of voters totaling not less than one percent of the total
18 number of votes cast for governor at the last preceding
19 general election at which a governor was elected:

20 (1) in the state for statewide offices; and

21 (2) in the district for offices other than
22 statewide offices.

23 The petition shall contain a statement that the voters
24 signing the petition are residents of the area to be
25 represented by the office for which the person being

1 nominated is a candidate.

2 C. The names certified to the county clerk shall
3 be filed on the twenty-third day following the primary
4 election in the year of the general election and shall be
5 accompanied by a nominating petition containing the
6 signatures of voters totaling not less than one percent of
7 the total number of votes cast for governor at the last
8 preceding general election at which a governor was elected:

9 (1) in the county for countywide offices;
10 and

11 (2) in the district for offices other than
12 countywide offices.

13 The petition shall contain a statement that the voters
14 signing the petition are residents of the area to be
15 represented by the office for which the person being
16 nominated is a candidate.

17 D. Except in the case of a political party
18 certified in the year of the election, persons certified as
19 candidates shall be members of that party on the day the
20 secretary of state issues the general election proclamation.

21 E. When a political party is certified in the year
22 of the general election, and after the day the secretary of
23 state issues the general election proclamation, a person
24 certified as a candidate shall be:

25 (1) a member of that party not later than

1 the date the political party filed its rules and qualifying
2 petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

3 (2) a resident in the district of the office
4 for which the person is a candidate on the date of the
5 secretary of state's proclamation for the general election or
6 in the case of a person seeking the office of United States
7 senator or United States representative, a resident within
8 New Mexico on the date of the secretary of state's
9 proclamation for the general election. No person who is a
10 candidate for a party in a primary election may be certified
11 as a candidate for a different party in the general election
12 in the same election cycle.

13 F. No voter shall sign a petition prescribed by
14 this section for more persons than the number of candidates
15 necessary to fill the office at the next ensuing general
16 election."

17 SECTION 3. Section 1-8-3 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 153, as amended) is amended to read:

19 "1-8-3. NOMINATION BY MINOR POLITICAL PARTY--OTHER
20 METHODS.--If the rules and regulations of a minor political
21 party require nomination by a method other than a political
22 convention:

23 A. the state chair and the governing board of the
24 state party shall certify to the secretary of state the names
25 of their party's nominees for United States senator, United

1 States representative, all elective state offices,
2 legislative offices elected from multicounty districts, all
3 elective judicial officers in the judicial department and all
4 offices representing a district composed of more than one
5 county;

6 B. the county chair and the governing board of the
7 county party shall certify to the county clerk the names of
8 their party's nominees for elected county offices and for
9 legislative offices elected from a district located wholly
10 within one county or that is composed of only one county; and

11 C. the names of such nominees shall be filed in
12 the same time and manner prescribed by the Election Code for
13 convention-designated nominees of minor political parties,
14 and each list of names certified shall be accompanied by the
15 petition containing a list of signatures and addresses of
16 voters as prescribed for convention-designated nominees."

17 SECTION 4. Section 1-8-13 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 162, as amended) is amended to read:

19 "1-8-13. PRIMARY ELECTION LAW--CONTENTS OF
20 PROCLAMATION.--The general election proclamation calling a
21 primary and general election shall contain:

22 A. the names of the major political parties
23 participating in the primary election;

24 B. the offices to be elected at the general
25 election and for which each political party shall nominate

1 candidates; provided that if any law is enacted by the
2 legislature in the year in which the primary election is held
3 and the law does not take effect until after the date to
4 amend the proclamation but prior to the date to fill
5 vacancies pursuant to Section 1-8-7 or 1-8-8 NMSA 1978, the
6 secretary of state shall conform the proclamation to the
7 intent of the law with respect to the offices for which each
8 political party shall nominate candidates;

9 C. the date on which declarations of candidacy and
10 nominating petitions for United States representative, any
11 office voted upon by all the voters of the state, a
12 legislative office, the office of district judge, district
13 attorney, public education commission or magistrate shall be
14 filed and the places where they shall be filed in order to
15 have the candidates' names printed on the official ballot of
16 their party at the primary election or in order to have the
17 candidates' names printed on the official ballot at the
18 general election, as applicable;

19 D. the date on and place at which declarations of
20 candidacy shall be filed for any other office and filing fees
21 paid or, in lieu thereof, a pauper's statement of inability
22 to pay;

23 E. the final date on and place at which candidates
24 for the office of United States representative and for any
25 statewide office seeking preprimary convention designation by

1 the major parties shall file petitions and declarations of
2 candidacy;

3 F. the final date on which the major political
4 parties shall hold state preprimary conventions for the
5 designation of candidates;

6 G. the final date on and place at which
7 certificates of designation of primary election candidates
8 shall be filed by political parties with the secretary of
9 state;

10 H. the date on which declarations of candidacy for
11 minor party candidates shall be filed and the places where
12 the declarations of candidacy shall be filed in order to have
13 the minor party candidate names printed on the official
14 ballot of the general election;

15 I. the date on which declarations of candidacy for
16 unaffiliated candidates shall be filed and the places where
17 the declarations of candidacy shall be filed in order to have
18 the unaffiliated candidate names printed on the official
19 ballot of the general election;

20 J. the date on which declarations of candidacy for
21 nonpartisan judicial retention shall be filed and the places
22 where the declarations of candidacy shall be filed in order
23 to have the judicial retention names printed on the official
24 ballot of the general election; and

25 K. the date on which declarations to be a write-in

1 candidate are to be filed and the places where the
2 declarations of candidacy shall be filed in order to have
3 write-in votes counted and canvassed at the political party
4 primary or general election."

5 SECTION 5. Section 1-8-33 NMSA 1978 (being Laws 1973,
6 Chapter 228, Section 7, as amended) is amended to read:

7 "1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--
8 NUMBER OF SIGNATURES REQUIRED.--

9 A. As used in this section, "total vote" means the
10 sum of all votes cast for all of the party's candidates for
11 governor at the last preceding primary election at which the
12 party's candidate for governor was nominated.

13 B. Candidates who seek preprimary convention
14 designation shall file nominating petitions at the time of
15 filing declarations of candidacy. Nominating petitions for
16 those candidates shall be signed by a number of voters equal
17 to at least two percent of the total vote of the candidate's
18 party in the state or congressional district, or the
19 following number of voters, whichever is greater: for
20 statewide offices, two hundred thirty voters; and for
21 congressional candidates, seventy-seven voters.

22 C. Nominating petitions for candidates for any
23 other office to be voted on at the primary election for which
24 nominating petitions are required shall be signed by a number
25 of voters equal to at least three percent of the total vote

1 of the candidate's party in the district or division, or the
2 following number of voters, whichever is greater: for
3 metropolitan court and magistrate courts, ten voters; for the
4 public education commission, twenty-five voters; for state
5 representative, ten voters; for state senator, seventeen
6 voters; and for district attorney and district judge, fifteen
7 voters.

8 D. A candidate who fails to receive the preprimary
9 convention designation that the candidate sought may collect
10 additional signatures to total at least four percent of the
11 total vote of the candidate's party in the state or
12 congressional district, whichever applies to the office the
13 candidate seeks, and file a new declaration of candidacy and
14 nominating petitions for the office for which the candidate
15 failed to receive a preprimary designation. The declaration
16 of candidacy and nominating petitions shall be filed with the
17 secretary of state either ten days following the date of the
18 preprimary convention at which the candidate failed to
19 receive the designation or on the date all declarations of
20 candidacy and nominating petitions are due pursuant to the
21 provisions of the Primary Election Law, whichever is later."

22 SECTION 6. Section 1-8-36.1 NMSA 1978 (being Laws 1981,
23 Chapter 156, Section 1, as amended) is amended to read:

24 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

25 A. Write-in candidates are permitted in the

1 primary election only for the offices of United States
2 representative, members of the legislature, district judges,
3 district attorneys, public education commission, magistrates
4 and any office voted upon by all voters of the state.

5 B. A person may be a write-in candidate only for
6 nomination by the major political party with which the person
7 is affiliated as shown by the certificate of registration,
8 and such person shall have the qualifications to be a
9 candidate in the primary election for the political party for
10 which the person is a write-in candidate.

11 C. A person desiring to be a write-in candidate
12 for one of the offices listed in Subsection A of this section
13 in the primary election shall file with the proper filing
14 officer a declaration of intent to be a write-in candidate.
15 Such declaration of intent shall be filed between 9:00 a.m.
16 and 5:00 p.m. on the third Tuesday in March.

17 D. At the time of filing the declaration of intent
18 to be a write-in candidate, the write-in candidate shall be
19 considered a candidate for all purposes and provisions
20 relating to candidates in the Election Code, including the
21 obligations to report pursuant to the Campaign Reporting Act,
22 except that the write-in candidate's name shall not be
23 printed on the ballot."

24 SECTION 7. Section 1-8-51 NMSA 1978 (being Laws 1977,
25 Chapter 322, Section 7, as amended) is amended to read:

1 "1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
2 STATES REPRESENTATIVE ELECTIONS--NOMINATING PETITIONS--
3 REQUIRED NUMBER OF SIGNATURES.--

4 A. The basis of percentage for the total number of
5 votes cast in each instance referred to in this section shall
6 be the total vote cast for governor at the last preceding
7 general election at which a governor was elected.

8 B. Nominating petitions for an independent
9 candidate for president of the United States shall be signed
10 by a number of voters equal to the number of signatures
11 required to form a new political party.

12 C. Nominating petitions for an independent
13 candidate for United States senator or any other statewide
14 elective office shall be signed by a number of voters equal
15 to at least two percent of the total number of votes cast in
16 the state.

17 D. Nominating petitions for an independent
18 candidate for United States representative shall be signed by
19 a number of voters equal to at least two percent of the total
20 number of votes cast in the district.

21 E. Nominating petitions for an independent
22 candidate for a member of the legislature, district judge,
23 district attorney, member of the public education commission,
24 magistrate or county office shall be signed by a number of
25 voters equal to at least two percent of the total number of

1 votes cast in the district, division or county, as the case
2 may be.

3 F. When a vacancy for any office occurs on the
4 general election ballot pursuant to Section 1-8-7 or 1-8-8
5 NMSA 1978 in which all political parties may name a general
6 election candidate or when a vacancy occurs in the office of
7 United States representative pursuant to Section 1-15-18.1
8 NMSA 1978, an independent candidate may file a declaration of
9 candidacy on or by the same deadline applicable to the
10 political parties. The nominating petitions for an
11 independent candidate in such circumstances shall be signed
12 by the number of voters provided in this section, unless
13 there are fewer than:

14 (1) sixty days from the announcement of the
15 vacancy to the last day to file a declaration of candidacy,
16 in which case an independent candidate shall submit
17 nominating petitions signed by a number of voters equal to
18 two-thirds the number of voters otherwise required by this
19 section for an independent candidate; or

20 (2) thirty days from the announcement of the
21 vacancy to the last day to file a declaration of candidacy,
22 in which case an independent candidate shall submit
23 nominating petitions signed by a number of voters equal to
24 one-third the number of voters otherwise required by this
25 section for an independent candidate.

1 G. A voter shall not sign a petition for an
2 independent candidate as provided in this section if the
3 voter has signed a petition for another independent candidate
4 for the same office."

5 **SECTION 8.** Section 1-10-8 NMSA 1978 (being Laws 2019,
6 Chapter 212, Section 103) is amended to read:

7 "1-10-8. **BALLOTS--ORDER OF OFFICES AND BALLOT**
8 **QUESTIONS.--**

9 A. In the year in which the president of the
10 United States is elected, the ballot in a primary election
11 and general election shall contain, when applicable, partisan
12 offices to be voted on in the following order:

13 (1) in a presidential primary, president;

14 (2) in a general election, president and
15 vice president as a ticket;

16 (3) United States senator;

17 (4) United States representative;

18 (5) state senator;

19 (6) state representative;

20 (7) supreme court;

21 (8) court of appeals;

22 (9) public education commission districts
23 with odd-numbered designations;

24 (10) district court;

25 (11) metropolitan court;

- 1 (12) county clerk;
- 2 (13) county treasurer; and
- 3 (14) county commission districts and
- 4 positions with odd-numbered designations.

5 B. In the year in which the governor is elected,
6 the ballot in a primary election and general election shall
7 contain, when applicable, partisan offices to be voted on in
8 the following order:

- 9 (1) United States senator;
- 10 (2) United States representative;
- 11 (3) in a major political party primary,
- 12 governor;
- 13 (4) in a major political party primary,
- 14 lieutenant governor;
- 15 (5) in a general election, governor and
- 16 lieutenant governor as a ticket;
- 17 (6) secretary of state;
- 18 (7) attorney general;
- 19 (8) state auditor;
- 20 (9) state treasurer;
- 21 (10) commissioner of public lands;
- 22 (11) state representative;
- 23 (12) supreme court;
- 24 (13) court of appeals;
- 25 (14) public education commission districts

1 with even-numbered designations;

2 (15) district court;

3 (16) district attorney;

4 (17) metropolitan court;

5 (18) magistrate court;

6 (19) county sheriff;

7 (20) county assessor;

8 (21) county commission districts and

9 positions with even-numbered designations; and

10 (22) probate judge.

11 C. The ballot in a regular local election shall
12 contain, when applicable, nonpartisan offices to be voted on
13 in the following order:

14 (1) municipal, with elective executive
15 officers listed first, governing board members listed second
16 and judicial officers listed third;

17 (2) board of education of a school district;

18 (3) community college, branch community
19 college, technical and vocational institute district or
20 learning center district; and

21 (4) special districts listed in order by
22 voting population of each special district, with the most
23 populous listed first and the least populous listed last.

24 D. The ballot in a statewide election shall
25 contain, when applicable, nonpartisan judicial retention and

1 in a statewide or special election, when applicable, ballot
2 questions to be voted on in the following order, unless a
3 different order is prescribed by the secretary of state:

- 4 (1) judicial retention;
- 5 (2) proposed state constitutional
6 amendments;
- 7 (3) other state ballot questions;
- 8 (4) county ballot questions; and
- 9 (5) local government ballot questions listed
10 in the same order as the list of local governments in
11 Subsection C of this section.

12 E. When multiple positions for the same
13 nonjudicial office are listed on the same ballot and each
14 position is to be elected individually:

- 15 (1) offices designated by district number
16 shall appear on the ballot in ascending numerical order of
17 the districts;
- 18 (2) offices not designated by district
19 number shall appear on the ballot in ascending numerical
20 order of the position; provided that the secretary of state
21 shall numerically designate the positions on the ballot as
22 "position one", "position two" and such additional
23 consecutively numbered positions as are necessary, and only
24 one member shall be elected for each position; and
- 25 (3) whenever two or more positions for the

1 same office are to be elected to represent the same area with
2 terms of different lengths of time, the secretary of state
3 shall first group the offices with the shorter length of time
4 and shall designate each position with "for a term expiring
5 ___", specifying the date the term expires.

6 F. When multiple positions for the same judicial
7 office are listed on the same ballot and each position is to
8 be elected or voted on individually:

9 (1) district, metropolitan and magistrate
10 court positions, either for partisan election or for
11 nonpartisan judicial retention, shall appear on the ballot in
12 ascending numerical order of the division number assigned to
13 each position;

14 (2) supreme court and court of appeals for
15 partisan election shall appear on the ballot in ascending
16 numerical order of the position number designated by the
17 secretary of state for that election, based on the date of
18 the vacancy causing the position to be listed on the ballot;
19 provided that if multiple vacancies occurred on the same day,
20 the positions shall appear on the ballot based on the order
21 of seniority of the justice or judge who vacated the
22 position, with the highest seniority listed first; and

23 (3) supreme court and court of appeals for
24 nonpartisan judicial retention shall appear on the ballot in
25 ascending numerical order of the position number designated

1 by the secretary of state for that election, based on the
2 seniority of the justice or judge seeking retention, with the
3 highest seniority listed first."

4 SECTION 9. Section 1-14-24 NMSA 1978 (being Laws 2008,
5 Chapter 41, Section 1, as amended) is amended to read:

6 "1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND
7 FEDERAL OFFICES--PROCEDURES.--

8 A. An automatic recount of the vote is required
9 when the canvass of returns indicates that the margin between
10 the two candidates receiving the greatest number of votes for
11 an office, the margin between those supporting and those
12 opposing a ballot question or the margin affecting the
13 outcome of a nonpartisan judicial retention election is less
14 than:

15 (1) one-fourth percent of the total votes
16 cast in that election:

17 (a) for that office in the case of a
18 federal or statewide office;

19 (b) on a ballot question in the case of
20 a state ballot question; or

21 (c) on a nonpartisan judicial retention
22 election in the case of the supreme court or the court of
23 appeals;

24 (2) one-half percent of the total votes cast
25 in that election:

1 (a) for that office in the case of a
2 public education commissioner, district attorney or any
3 office elected countywide in a county with more than one
4 hundred fifty thousand registered voters;

5 (b) on a ballot question in the case of
6 a local ballot question; or

7 (c) on a nonpartisan judicial retention
8 election in the case of a district court or the metropolitan
9 court; or

10 (3) one percent of the total votes cast in
11 that election for that office in the case of any other
12 office.

13 B. For an office for which ballots were cast in
14 more than one county, the secretary of state shall file
15 notice with the state canvassing board upon the completion of
16 the state canvass that an automatic recount is required, and
17 the state canvassing board shall order a recount of the
18 ballots for the specified office. For an office in which
19 ballots were cast solely within one county, the secretary of
20 state shall file notice with the state canvassing board
21 within seven days after receiving notice from the county
22 clerk following the completion of the county canvass that an
23 automatic recount is required, and the state canvassing board
24 shall order a recount of the ballots for the specified
25 office.

1 C. Automatic recounts shall be conducted pursuant
2 to the recount procedures established in Sections 1-14-16 and
3 1-14-18 through 1-14-23 NMSA 1978."

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

6 "1-19A-2. DEFINITIONS.--As used in the Voter Action
7 Act:

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

11 B. "certified candidate" means a candidate running
12 for a covered office who chooses to obtain financing pursuant
13 to the Voter Action Act and is certified as a Voter Action
14 Act candidate;

15 C. "contested" means there are more candidates for
16 a position than the number to be elected to that position;

17 D. "contribution" means a gift, subscription,
18 loan, advance or deposit of money or other thing of value,
19 including the estimated value of an in-kind contribution,
20 that is made or received for the purpose of supporting or
21 opposing the nomination for election or election of a
22 candidate for public office, including payment of a debt
23 incurred in an election campaign and also including a
24 coordinated expenditure, but "contribution" does not include:

25 (1) a qualifying contribution;

1 (2) the value of services provided without
2 compensation or unreimbursed travel or other personal
3 expenses of individuals who volunteer a portion or all of
4 their time on behalf of a candidate; or

5 (3) the value of the incidental use of the
6 candidate's personal property, home or business office for
7 campaign purposes;

8 E. "coordinated expenditure" means an expenditure
9 that is made:

10 (1) by a person other than a candidate or
11 campaign committee;

12 (2) at the request or suggestion of, or in
13 cooperation, consultation or concert with, a candidate,
14 campaign committee or political party or any agent or
15 representative of such a candidate, campaign committee or
16 political party; and

17 (3) for the purpose of:

18 (a) supporting or opposing the
19 nomination or election of a candidate; or

20 (b) paying for an advertisement that
21 refers to a clearly identified candidate and that is
22 published and disseminated to the relevant electorate in New
23 Mexico within thirty days before the primary election or
24 sixty days before the general election in which the candidate
25 is on the ballot;

1 F. "covered office" means any office of the
2 judicial department subject to statewide elections;

3 G. "expenditure" means a payment, transfer or
4 distribution of, or a promise to pay, transfer or distribute,
5 any money or other thing of value for the purpose of
6 supporting or opposing the nomination or election of a
7 candidate;

8 H. "fund" means the public election fund;

9 I. "qualifying contribution" means a donation of
10 five dollars (\$5.00) in the form of cash, a check, a money
11 order or an electronic form of payment, as prescribed by the
12 secretary, and payable to the fund in support of an applicant
13 candidate that is:

14 (1) made by a voter who is eligible to vote
15 for the covered office that the applicant candidate is
16 seeking;

17 (2) made during the designated qualifying
18 period and obtained through efforts made with the knowledge
19 and approval of the applicant candidate; and

20 (3) acknowledged by a receipt that
21 identifies the contributor's name and residential address on
22 forms provided by the bureau of elections and that is signed
23 by the contributor, one copy of which is attached to the list
24 of contributors and sent to the bureau of elections;

25 J. "qualifying period" means:

1 (1) for candidates who are seeking public
2 financing for a primary election or for both a primary and a
3 general election, the period beginning October 1 immediately
4 preceding the election year and ending at 5:00 p.m. on the
5 third Tuesday of March of the election year; and

6 (2) for candidates who are seeking public
7 financing only for a general election, the period beginning
8 January 1 of the election year and ending that year at 5:00
9 p.m. on the twenty-third day following the primary election
10 for the office for which the candidate is running; and

11 K. "secretary" means the secretary of state or the
12 office of the secretary of state."

13 SECTION 11. Section 1-19A-4 NMSA 1978 (being Laws 2003,
14 Chapter 14, Section 4, as amended) is amended to read:

15 "1-19A-4. QUALIFYING CONTRIBUTIONS.--

16 A. Applicant candidates for all statewide judicial
17 elective offices shall obtain qualifying contributions equal
18 to one-tenth of one percent of the number of voters in the
19 state.

20 B. Applicant candidates may accept qualifying
21 contributions from persons who become registered within the
22 statutory time frame that would enable those persons to vote
23 in the primary election.

24 C. Voters registered as independent are not
25 excluded from making qualifying contributions but shall be

1 registered within the statutory time frame as independent.

2 D. No payment, gift or anything of value shall be
3 given in exchange for a qualifying contribution."

4 SECTION 12. Section 1-19A-10 NMSA 1978 (being Laws
5 2003, Chapter 14, Section 10, as amended) is amended to read:

6 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

9 (1) financing the election campaigns of
10 certified candidates for covered offices;

11 (2) paying administrative and enforcement
12 costs of the Voter Action Act; and

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

15 B. The state treasurer shall invest the funds as
16 other state funds are invested, and all income derived from
17 the fund shall be credited directly to the fund. Remaining
18 balances at the end of a fiscal year shall remain in the fund
19 and not revert to the general fund.

20 C. Money received from the following sources shall
21 be deposited directly into the fund:

22 (1) qualifying contributions that have been
23 submitted to the secretary;

24 (2) any recurring balance of unspent fund
25 money distributed to a certified candidate who does not

1 remain a candidate through the primary or general election
2 period for which the money was distributed;

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

6 (4) money that remains unspent or
7 unencumbered by a certified candidate following the date of
8 the general election;

9 (5) unspent contributions to a candidate;

10 (6) money distributed to the fund from funds
11 received pursuant to the Uniform Unclaimed Property Act
12 (1995); and

13 (7) money appropriated by the legislature or
14 as otherwise provided by law."

15 SECTION 13. Section 1-19A-13 NMSA 1978 (being Laws
16 2003, Chapter 14, Section 13, as amended) is amended to read:

17 "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

18 A. By September 1 of each odd-numbered year, the
19 secretary shall determine the amount of money to be
20 distributed to each certified candidate for the election
21 cycle ending with the next general election, based on the
22 type of election and the provisions of Subsections B through
23 G of this section.

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

1 fifteen cents (\$.15) for each voter of the candidate's party
2 in the state.

3 C. For uncontested primary elections in which
4 another candidate has filed a declaration of candidacy for
5 nomination in another party's primary for the same office and
6 that candidate's primary is contested, the amount of money to
7 be distributed to a certified candidate is equal to twenty
8 percent of the amount specified in Subsection B of this
9 section.

10 D. For uncontested primary elections in which
11 another candidate has filed a declaration of candidacy for
12 nomination in another party's primary for the same office,
13 but no primary for the office is contested, the amount of
14 money to be distributed to a certified candidate is equal to
15 the average of the amount each candidate would receive
16 pursuant to Subsection B of this section.

17 E. For contested general elections, the amount of
18 money to be distributed to a certified candidate is equal to
19 fifteen cents (\$.15) for each voter in the state.

20 F. If a general election race that is initially
21 uncontested later becomes contested because of the
22 qualification of a candidate for that race, an amount of
23 money shall be distributed to the certified candidate to make
24 that candidate's distribution amount equal to the amount
25 distributed pursuant to Subsection E of this section.

1 G. Once the certification for candidates for the
2 primary election has been completed, the secretary shall
3 calculate the total amount of money to be distributed in the
4 primary election cycle, based on the number of certified
5 candidates and the allocations specified in this section.
6 The secretary shall also prepare an estimate of the total
7 amount of money that might be distributed in the general
8 election cycle. If the total amount to be distributed in the
9 primary election cycle and the estimated total amount to be
10 distributed in the general election cycle taken together
11 exceed the amount expected to be available in the fund, the
12 secretary shall allocate the amount available between the
13 primary and general election cycles. This allocation shall
14 be based on the ratio of the two total amounts.

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

22 I. At least every two years after January 1, 2007,
23 the secretary shall evaluate and modify as necessary the
24 dollar values originally determined by Subsections B through
25 F of this section and shall increase the amounts by the

1 percentage of the preceding two calendar years' increase of
2 the consumer price index for all urban consumers, United
3 States city average for all items, published by the United
4 States department of labor.

5 J. No money shall be distributed to candidates in
6 judicial retention elections, and except as provided in
7 Subsections C, D and F of this section, no money shall be
8 distributed to a candidate in an uncontested election."

9 SECTION 14. Section 8-1-1 NMSA 1978 (being Laws 1971,
10 Chapter 260, Section 1, as amended) is amended to read:

11 "8-1-1. COMPENSATION OF ELECTIVE STATE OFFICERS.--

12 A. Annual compensation of elective state officers
13 shall be paid as follows:

14	governor	\$110,000
15	secretary of state	85,000
16	state auditor	85,000
17	state treasurer	85,000
18	attorney general	95,000
19	commissioner of public lands	90,000.

20 B. Any person succeeding to the office of governor
21 as provided in Article 5, Section 7 of the constitution of
22 New Mexico shall receive the salary of the office. Every
23 person serving as acting governor during the incapacity or
24 absence of the governor from the state, other than the
25 secretary of state, shall receive two hundred fifty dollars

1 (\$250) as compensation for each day's service as acting
2 governor.

3 C. All compensation under this section shall be
4 paid from the general fund, except that the amount paid to
5 the commissioner of public lands shall be paid from the state
6 lands maintenance fund."

7 SECTION 15. Section 8-8-1 NMSA 1978 (being Laws 1998,
8 Chapter 108, Section 1, as amended) is recompiled as part of
9 Chapter 62, Article 19 NMSA 1978 and is amended to read:

10 "SHORT TITLE.--Chapter 62, Article 19 NMSA 1978 may be
11 cited as the "Public Regulation Commission Act"."

12 SECTION 16. Section 8-8-2 NMSA 1978 (being Laws 1998,
13 Chapter 108, Section 2) is recompiled as part of the Public
14 Regulation Commission Act and is amended to read:

15 "DEFINITIONS.--As used in the Public Regulation
16 Commission Act:

17 A. "commission" means the public regulation
18 commission;

19 B. "commissioner" means a person appointed to the
20 public regulation commission; and

21 C. "person" means an individual, corporation,
22 firm, partnership, association, joint venture or similar
23 legal entity."

24 SECTION 17. Section 8-8-3 NMSA 1978 (being Laws 1998,
25 Chapter 108, Section 3) is recompiled as part of the Public

1 Regulation Commission Act and is amended to read:

2 "PUBLIC REGULATION COMMISSION.--

3 A. The "public regulation commission", created in
4 Article 11, Section 1 of the constitution of New Mexico, is
5 composed of three commissioners appointed by the governor
6 with the consent of the senate as provided in that article.

7 B. The commission shall annually elect one of its
8 members chair, who shall preside at hearings. In the absence
9 of the chair, the commission may appoint any other member to
10 preside."

11 SECTION 18. A new section of the Public Regulation
12 Commission Act is enacted to read:

13 "PUBLIC REGULATION COMMISSION NOMINATING COMMITTEE.--

14 A. The "public regulation commission nominating
15 committee" is created and consists of seven members who are:

16 (1) knowledgeable about public utility
17 regulation;

18 (2) not employed by or on behalf of or have
19 a contract with a public utility that is regulated by the
20 commission;

21 (3) not applicants or nominees for a
22 position on the commission; and

23 (4) appointed as follows:

24 (a) four members appointed one each by
25 the speaker of the house of representatives, the minority

1 floor leader of the house of representatives, the president
2 pro tempore of the senate and the minority floor leader of
3 the senate, with no more than two members being from the same
4 political party;

5 (b) two members appointed one each by
6 the secretary of energy, minerals and natural resources and
7 the secretary of economic development; and

8 (c) one member who is a member of an
9 Indian nation, tribe or pueblo appointed by the governor.

10 B. A committee member shall:

11 (1) be a resident of New Mexico;

12 (2) serve a four-year term; and

13 (3) serve without compensation, but shall be
14 reimbursed for expenses incurred in pursuit of the member's
15 duties on the committee pursuant to the Per Diem and Mileage
16 Act.

17 C. The committee and individual members shall be
18 subject to the Governmental Conduct Act, the Inspection of
19 Public Records Act, the Financial Disclosure Act and the Open
20 Meetings Act.

21 D. Administrative support shall be provided to the
22 committee by the staff of the commission.

23 E. Initial appointments to the committee shall be
24 made by the appointing authorities prior to July 1, 2022.

25 Subsequent appointments shall be made no later than thirty

1 days before the end of a term.

2 F. The first meeting of the appointed members of
3 the committee shall be held prior to September 1, 2022. The
4 committee shall select one member to be chair and one member
5 to be secretary. Following the first meeting, the committee
6 shall meet as often as necessary in order to submit a list to
7 the governor of no fewer than five qualified nominees for
8 appointment to the commission for the terms beginning January
9 1, 2023. The list shall be developed to provide geographical
10 diversity, and nominees on the list shall be from at least
11 three different counties of the state.

12 G. Subsequent to January 1, 2023, the committee
13 shall meet at least ninety days prior to the date on which
14 the term of a commissioner ends and as often as necessary
15 thereafter in order to submit a list to the governor, at
16 least thirty days prior to the beginning of the new term, of
17 no fewer than two qualified nominees from diverse
18 geographical areas of the state for appointment to the
19 commission for each commissioner position term that is
20 ending.

21 H. Upon the occurrence of a vacancy in a
22 commissioner position, the committee shall meet within thirty
23 days of the date of the beginning of the vacancy and as often
24 as necessary thereafter in order to submit a list to the
25 governor, within sixty days of the first meeting after the

1 vacancy occurs, of no fewer than two qualified nominees from
2 diverse geographical areas of the state for appointment to
3 the commission to fill the remainder of the term of each
4 commissioner position that is vacant.

5 I. If a position on the committee becomes vacant
6 during a term, a successor shall be selected in the same
7 manner as the original appointment for that position and
8 shall serve for the remainder of the term of the position
9 vacated.

10 J. The committee shall actively solicit, accept
11 and evaluate applications from qualified individuals for a
12 position on the commission and may require an applicant to
13 submit any information it deems relevant to the consideration
14 of the individual's application.

15 K. The committee shall select nominees for
16 submission to the governor who, in the committee's judgment,
17 are best qualified to serve as a member of the commission.

18 L. A majority vote of all members of the committee
19 in favor of a person is required for that person to be
20 included on the list of qualified nominees submitted to the
21 governor."

22 SECTION 19. Section 8-8-3.1 NMSA 1978 (being Laws 2013,
23 Chapter 64, Section 1, as amended) is recompiled as part of
24 the Public Regulation Commission Act and is amended to read:

25 "QUALIFICATIONS OF COMMISSIONERS.--

1 A. Commissioners shall be persons who are
2 independent of the industries regulated by the commission and
3 shall possess demonstrated competence.

4 B. In order to be appointed as a commissioner, a
5 person must be qualified for office by:

6 (1) having a baccalaureate degree from an
7 institution of higher education that has been accredited by a
8 regional or national accrediting body and at least ten years
9 of professional experience in an area regulated by the
10 commission or in the energy sector and involving a scope of
11 work that includes accounting, public or business
12 administration, economics, finance, statistics, policy,
13 engineering or law; or

14 (2) having higher education resulting in at
15 least a professional license or a post-graduate degree from
16 an institution of higher education that has been accredited
17 by a regional or national accrediting body in a field related
18 to an area regulated by the commission, including accounting,
19 public or business administration, economics, finance,
20 statistics, policy, engineering or law, and at least ten
21 years of professional experience within the person's field.

22 C. A commissioner shall not have a financial
23 interest in a public utility in this state or elsewhere and
24 shall not have been employed by a commission-regulated entity
25 at any time during the two years prior to appointment to the

1 commission.

2 D. Commissioners shall give their entire time to
3 the business of the commission and shall not pursue any other
4 business or vocation or hold any other office for profit.

5 E. As used in this section, "professional
6 experience" means employment in which the prospective
7 appointee for commissioner regularly made decisions requiring
8 discretion and independent judgment and:

9 (1) engaged in policy analysis, research,
10 consumer advocacy or implementation in an area regulated by
11 the commission or in the energy sector;

12 (2) managed, as the head, deputy head or
13 division director, a federal, state, tribal or local
14 government department or division responsible for utilities,
15 energy policy, transportation or construction; or

16 (3) managed a business or organization
17 regulated by the commission or in the energy sector that had
18 five or more employees during the time it was managed by the
19 prospective appointee."

20 SECTION 20. Section 8-8-3.2 NMSA 1978 (being Laws 2013,
21 Chapter 64, Section 2) is recompiled as part of the Public
22 Regulation Commission Act and is amended to read:

23 "CONTINUING EDUCATION REQUIREMENTS FOR COMMISSIONERS.--

24 A. Beginning July 1, 2013, a commissioner shall
25 complete:

1 (1) an ethics certificate course provided in
2 person or online by a New Mexico public post-secondary
3 educational institution in the first twelve-month period
4 after taking office and at least one two-hour ethics course
5 in each subsequent twelve-month period that the commissioner
6 serves in office; and

7 (2) at least thirty-two hours of continuing
8 education relevant to the work of the commission in each
9 twelve-month period that the commissioner serves in office.
10 Continuing education courses shall be endorsed by the
11 national association of regulatory utility commissioners or
12 by the relevant licensing or professional association for a
13 qualifying area of study for degree holders pursuant to this
14 section.

15 B. A commissioner shall be responsible for having
16 the endorsing organization submit certification of completion
17 of the hours of education required pursuant to Subsection A
18 of this section to the commission's chief of staff.

19 C. If a commissioner fails to comply with the
20 education requirements in Subsection A of this section by the
21 last day of a twelve-month period, the commissioner's
22 compensation for performing the duties of the office shall be
23 withheld by the commission until the requirements for the
24 preceding twelve-month period or periods have been met."

25 **SECTION 21.** Section 8-8-6 NMSA 1978 (being Laws 1998,

1 Chapter 108, Section 6, as amended) is amended to read:

2 "8-8-6. COMMISSION--DIVISIONS.--The commission includes
3 the following organizational units:

- 4 A. the administrative services division;
- 5 B. the consumer relations division;
- 6 C. the legal division;
- 7 D. the transportation division; and
- 8 E. the utility division."

9 SECTION 22. Section 8-8-18 NMSA 1978 (being Laws 1998,
10 Chapter 108, Section 18) is recompiled as part of the Public
11 Regulation Commission Act and is amended to read:

12 "RECUSAL OF COMMISSIONER OR HEARING EXAMINER.--

13 A. A commissioner or hearing examiner shall self
14 recuse in any adjudicatory proceeding in which the
15 commissioner or hearing examiner is unable to make a fair and
16 impartial decision or in which there is reasonable doubt
17 about whether the commissioner or hearing examiner can make a
18 fair and impartial decision, including:

19 (1) when the commissioner or hearing
20 examiner has a personal bias or prejudice concerning a party
21 or its representative or has prejudged a disputed evidentiary
22 fact involved in a proceeding prior to hearing. For the
23 purposes of this paragraph, "personal bias or prejudice"
24 means a predisposition toward a person based on a previous or
25 ongoing relationship, including a professional, personal,

1 familial or other intimate relationship, that renders the
2 commissioner or hearing examiner unable to exercise the
3 commissioner's or hearing examiner's functions impartially;

4 (2) when the commissioner or hearing
5 examiner has a pecuniary interest in the outcome of the
6 proceeding other than as a customer of a party;

7 (3) when in previous employment the
8 commissioner or hearing examiner served as an attorney,
9 adviser, consultant or witness in the matter in controversy;
10 or

11 (4) when, as a nominee for appointment to
12 the office of public regulation commissioner, the nominee
13 announced how the nominee would rule on the adjudicatory
14 proceeding or a factual issue in the adjudicatory proceeding.

15 B. If a commissioner or hearing examiner fails to
16 self recuse when it appears that grounds exist, a party shall
17 promptly notify the commissioner or hearing examiner of the
18 apparent grounds for recusal. If the commissioner or hearing
19 examiner declines to self recuse upon request of a party, the
20 commissioner or hearing examiner shall provide a full
21 explanation in support of the refusal."

22 SECTION 23. Section 8-8-19 NMSA 1978 (being Laws 1998,
23 Chapter 108, Section 19) is recompiled as part of the Public
24 Regulation Commission Act and is amended to read:

25 "PROHIBITED ACTS--NOMINEES--COMMISSIONERS AND

1 EMPLOYEES.--

2 A. As used in this section, in addition to the
3 definitions provided in Section 16 of this 2020 act:

4 (1) "affiliated interest" means a person who
5 directly controls or is controlled by or is under common
6 control with a regulated entity, including an agent,
7 representative, attorney, employee, officer, owner, director
8 or partner of an affiliated interest. For the purposes of
9 this definition, "control" includes the possession of the
10 power to direct or cause the direction of the management and
11 policies of a person, whether directly or indirectly, through
12 the ownership, control or holding with the power to vote of
13 ten percent or more of the person's voting securities;

14 (2) "intervenor" means a person who is
15 intervening as a party in an adjudicatory matter or
16 commenting in a rulemaking pending before the commission or
17 has intervened in an adjudicatory or rulemaking matter before
18 the commission within the preceding twenty-four months,
19 including an agent, representative, attorney, employee,
20 officer, owner, director, partner or member of an intervenor;

21 (3) "pecuniary interest" includes owning or
22 controlling securities; serving as an officer, director,
23 partner, owner, employee, attorney or consultant; or
24 otherwise benefiting from a business relationship.

25 "Pecuniary interest" does not include an investment in a

1 mutual fund or similar third-party-controlled investment,
2 pension or disability benefits or an interest in capital
3 credits of a rural electric cooperative or telephone
4 cooperative because of current or past patronage; and

5 (4) "regulated entity" means a person whose
6 charges for services to the public are regulated by the
7 commission and includes any direct or emerging competitors of
8 a regulated entity and includes an agent, representative,
9 attorney, employee, officer, owner, director or partner of
10 the regulated entity.

11 B. In addition to the requirements of the
12 Financial Disclosure Act and the Governmental Conduct Act,
13 nominees for appointment to the commission, commissioners and
14 employees of the commission shall comply with the
15 requirements of the Public Regulation Commission Act, as
16 applicable.

17 C. A nominee for appointment to the commission
18 shall not solicit or accept anything of value, either
19 directly or indirectly, from a person whose charges for
20 services to the public are regulated by the commission. For
21 the purposes of this subsection, "anything of value" includes
22 money, in-kind contributions and volunteer services to the
23 nominee or the nominee's organization, but does not include
24 pension or disability benefits.

25 D. A commissioner or employee of the commission

1 shall not:

2 (1) accept anything of value from a
3 regulated entity, affiliated interest or intervenor. For the
4 purposes of this paragraph, "anything of value" does not
5 include:

6 (a) the cost of refreshments totaling
7 no more than five dollars (\$5.00) a day or refreshments at a
8 public reception or other public social function that are
9 available to all guests equally;

10 (b) inexpensive promotional items that
11 are available to all customers of the regulated entity,
12 affiliated interest or intervenor; or

13 (c) pension or disability benefits
14 received from a regulated entity, affiliated interest or
15 intervenor;

16 (2) have a pecuniary interest in a regulated
17 entity, affiliated interest or intervenor, and if a pecuniary
18 interest in an intervenor develops, the commissioner or
19 employee shall divest that interest or self recuse from the
20 proceeding with the intervenor interest; or

21 (3) solicit any regulated entity, affiliated
22 interest or intervenor to appoint a person to a position or
23 employment in any capacity.

24 E. After leaving the commission:

25 (1) a former commissioner shall not be

1 employed or retained in a position that requires appearances
2 before the commission by a regulated entity, affiliated
3 interest or intervenor within two years of the former
4 commissioner's separation from the commission;

5 (2) a former employee shall not appear
6 before the commission representing a party to an adjudication
7 or a participant in a rulemaking within one year of ceasing
8 to be an employee; and

9 (3) a former commissioner or employee shall
10 not represent a party before the commission or a court in a
11 matter that was pending before the commission while the
12 commissioner or employee was associated with the commission
13 and in which the former commissioner or employee was
14 personally and substantially involved in the matter.

15 F. The attorney general or a district attorney may
16 institute a civil action in the district court for Santa Fe
17 county or, in the attorney general's or a district attorney's
18 discretion, the district court for the county in which a
19 defendant resides if a violation of this section has occurred
20 or to prevent a violation of this section. A civil penalty
21 may be assessed in the amount of two hundred fifty dollars
22 (\$250) for each violation, not to exceed five thousand
23 dollars (\$5,000)."

24 SECTION 24. Section 10-11-26.2 NMSA 1978 (being Laws
25 1994, Chapter 128, Section 3, as amended) is amended to read:

1 "10-11-26.2. STATE GENERAL MEMBER COVERAGE PLAN 3--AGE
2 AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

3 A. Under state general member coverage plan 3:

4 (1) for a member who on or before June 30,
5 2013 was a peace officer and for a member who is not a peace
6 officer but was a retired member or a member on June 30,
7 2013, the age and service credit requirements for normal
8 retirement are:

9 (a) age sixty-five years or older and
10 five or more years of service credit;

11 (b) age sixty-four years and eight or
12 more years of service credit;

13 (c) age sixty-three years and eleven or
14 more years of service credit;

15 (d) age sixty-two years and fourteen or
16 more years of service credit;

17 (e) age sixty-one years and seventeen
18 or more years of service credit;

19 (f) age sixty years and twenty or more
20 years of service credit; or

21 (g) any age and twenty-five or more
22 years of service credit;

23 (2) for a member who is not a peace officer
24 and was not a retired member or a member on June 30, 2013,
25 the age and service requirements for normal retirement are:

1 (a) age sixty-five years or older and
2 eight or more years of service credit; or

3 (b) any age if the member has eight or
4 more years of service credit and the sum of the member's age
5 and years of service credit equals at least eighty-five;

6 (3) for a member who on or after July 1,
7 2013 becomes a peace officer and who was not a retired member
8 or a member on June 30, 2013, the age and service
9 requirements for normal retirement are:

10 (a) age sixty years or older and six or
11 more years of service credit; or

12 (b) any age and twenty-five or more
13 years of service credit; and

14 (4) for a member who on or after January 1,
15 2023 becomes a public regulation commission commissioner, who
16 was not a retired member or a member prior to January 1, 2023
17 and whose service credit is limited to service as a
18 commissioner, the age and service requirement for normal
19 retirement is age sixty-five years or older and six or more
20 years of service credit.

21 B. As used in this section, "peace officer" means
22 any employee of the state with a duty to maintain public
23 order or to make arrests for crime, whether that duty extends
24 to all crimes or is limited to specific crimes, and who is
25 not specifically covered by another coverage plan."

1 SECTION 25. Section 10-11A-2 NMSA 1978 (being Laws
2 1983, Chapter 263, Section 2, as amended) is amended to read:

3 "10-11A-2. DEFINITIONS.--As used in the Volunteer
4 Firefighters Retirement Act:

5 A. "association" means the public employees
6 retirement association;

7 B. "board" means the retirement board of the
8 association;

9 C. "fire department" means a fire department with
10 volunteer members that is certified by the state fire
11 marshal's office;

12 D. "fund" means the volunteer firefighters
13 retirement fund; and

14 E. "member" means a volunteer nonsalaried
15 firefighter who is listed as an active member on the rolls of
16 a fire department and whose first year of service credit was
17 accumulated during or after the year the member attained the
18 age of sixteen. A volunteer firefighter who receives
19 reimbursement for personal out-of-pocket costs shall not be
20 considered a salaried firefighter."

21 SECTION 26. Section 10-11A-6 NMSA 1978 (being Laws
22 1983, Chapter 263, Section 6, as amended) is amended to read:

23 "10-11A-6. DETERMINATION OF SERVICE CREDIT.--

24 A. A member may claim one year of service credit
25 for each year in which a fire department certifies that the

1 member:

2 (1) attended fifty percent of all scheduled
3 fire drills for which the fire department held the member
4 responsible to attend;

5 (2) attended fifty percent of all scheduled
6 business meetings for which the fire department held the
7 member responsible to attend; and

8 (3) participated in at least fifty percent
9 of all emergency response calls for which the fire department
10 held the member responsible to attend.

11 B. The chief of each fire department shall submit
12 to the association by March 31 of each year documentation of
13 the qualifications of each member for the preceding calendar
14 year; provided that the chief shall:

15 (1) submit the documentation on forms
16 provided by the association;

17 (2) acknowledge the truth of the records
18 under oath before a notary public; and

19 (3) have the notarized forms signed by the
20 mayor, if distributions from the fire protection fund for the
21 fire department are made to an incorporated municipality, or
22 the chair of the county commission, if distributions from the
23 fire protection fund for the fire department are made to a
24 county fire district.

25 C. For service credit that has been earned, but

1 not credited pursuant to Subsection B of this section, a
2 member may post or adjust service credit earned for not more
3 than the two preceding calendar years; provided that the
4 member shall:

5 (1) file with the association a completed
6 "Corrected Qualification Record" or "Adjusted Qualification
7 Record" as prescribed by the association;

8 (2) acknowledge the truth of the records
9 under oath before a notary public; and

10 (3) have the notarized forms signed by the
11 mayor, if distributions from the fire protection fund for the
12 fire department are made to an incorporated municipality, or
13 the chair of the county commission, if distributions from the
14 fire protection fund for the fire department are made to a
15 county fire district.

16 D. Prior to April 1, 2020, for service credit that
17 has been earned, but not credited pursuant to Subsection B of
18 this section, a member may post or adjust service credit
19 earned for one or more years beginning on or after January 1,
20 1984; provided that the member shall:

21 (1) file with the association a completed
22 "Corrected Qualification Record" or "Adjusted Qualification
23 Record" as prescribed by the association;

24 (2) acknowledge the truth of the records
25 under oath before a notary public; and

1 (3) have the notarized forms signed by the
2 mayor or city manager, if distributions from the fire
3 protection fund for the fire department are made to an
4 incorporated municipality, or the chair of the board of
5 county commissioners, if distributions from the fire
6 protection fund for the fire department are made to a county
7 fire district.

8 E. The association may request the state fire
9 marshal's office to verify member qualifications submitted to
10 the association."

11 SECTION 27. Section 10-11B-5 NMSA 1978 (being Laws
12 2007, Chapter 149, Section 5, as amended) is amended to read:

13 "10-11B-5. FIREFIGHTERS' SURVIVORS SUPPLEMENTAL
14 BENEFITS--REVIEW COMMITTEE--DETERMINATION--PAYMENT.--

15 A. There is created the "firefighters' survivors
16 supplemental death benefits review committee". The committee
17 shall consist of the attorney general or the attorney
18 general's designee and the fire services council.

19 B. The firefighters' survivors supplemental death
20 benefits review committee shall determine whether a
21 firefighter has been killed in the line of duty and advise
22 the state fire marshal of that determination. In addition to
23 any other death benefits provided by law, the surviving
24 spouse or children shall be paid two hundred fifty thousand
25 dollars (\$250,000) as supplemental death benefits whenever a

1 firefighter is killed in the line of duty. The benefits
2 shall be paid from the fund.

3 C. The benefits shall be paid entirely to the
4 surviving spouse. If there is no surviving spouse, the
5 benefits shall be distributed in pro rata shares to all
6 surviving children. If there are no surviving children or
7 spouse, benefits shall be distributed to the surviving
8 parents of the firefighter."

9 SECTION 28. Section 24-22-2 NMSA 1978 (being Laws 2001,
10 Chapter 31, Section 2 and Laws 2001, Chapter 132, Section 2,
11 as amended) is amended to read:

12 "24-22-2. DEFINITIONS.--As used in the Safe Haven for
13 Infants Act:

14 A. "fire station" means a fire station that is
15 certified by the state fire marshal's office;

16 B. "hospital" means an acute care general hospital
17 or health care clinic licensed by the state;

18 C. "Indian child" means an Indian child as defined
19 by the federal Indian Child Welfare Act of 1978;

20 D. "infant" means a child no more than ninety days
21 old, as determined within a reasonable degree of medical
22 certainty;

23 E. "law enforcement agency" means a law
24 enforcement agency of the state or a political subdivision of
25 the state;

1 F. "safe haven site" means a hospital, law
2 enforcement agency or fire station that has staff on site at
3 the time an infant is left at such a site; and

4 G. "staff" means an employee, contractor, agent or
5 volunteer performing services as required and on behalf of
6 the safe haven site."

7 SECTION 29. Section 59A-52-1 NMSA 1978 (being Laws
8 1984, Chapter 127, Section 947, as amended) is amended to
9 read:

10 "59A-52-1. STATE FIRE MARSHAL'S OFFICE CREATED--STATE
11 FIRE MARSHAL CREATED.--

12 A. The "state fire marshal's office" is created as
13 a division under the homeland security and emergency
14 management department.

15 B. The position of "state fire marshal" is created
16 as the director of the state fire marshal's office.

17 C. The office consists of the:

- 18 (1) firefighter training academy program;
- 19 (2) fire service support program;
- 20 (3) fire investigations program; and
- 21 (4) fire code enforcement program."

22 SECTION 30. Section 59A-52-3 NMSA 1978 (being Laws
23 1984, Chapter 127, Section 949, as amended) is amended to
24 read:

25 "59A-52-3. DEPUTY STATE FIRE MARSHAL AND OTHER

1 EMPLOYEES--QUALIFICATIONS OF DEPUTY.--The state fire marshal
2 may employ with the consent of the secretary of homeland
3 security and emergency management deputy state fire marshals
4 and other employees to assist in the execution of the
5 marshal's duties."

6 SECTION 31. Section 59A-52-4 NMSA 1978 (being Laws
7 1984, Chapter 127, Section 950) is amended to read:

8 "59A-52-4. BONDING OF EMPLOYEES.--The state fire
9 marshal shall require the bonding of those employees whose
10 duties in the marshal's opinion require such bonds and in an
11 amount determined by the marshal."

12 SECTION 32. Section 59A-52-5 NMSA 1978 (being Laws
13 1984, Chapter 127, Section 951) is amended to read:

14 "59A-52-5. COOPERATION WITH OTHER AGENCIES FOR
15 PREVENTION AND CONTROL OF FIRES.--The state fire marshal is
16 authorized to cooperate with all other groups, organizations
17 and agencies in this state or in other states in the
18 collection, dissemination and evaluation of information,
19 statistics and suggestions for prevention or control of
20 fires."

21 SECTION 33. Section 59A-52-6 NMSA 1978 (being Laws
22 1984, Chapter 127, Section 952) is amended to read:

23 "59A-52-6. FIRE PROTECTION TRAINING PROGRAMS.--The
24 state fire marshal shall establish and conduct training
25 programs throughout the state for demonstrating and teaching

1 firefighters proper methods of preventing and extinguishing
2 fires."

3 SECTION 34. Section 59A-52-7 NMSA 1978 (being Laws
4 1984, Chapter 127, Section 953) is amended to read:

5 "59A-52-7. TEACHING FIRE PREVENTION AND CONTROL IN
6 PUBLIC SCHOOLS--RULES FOR SCHOOL BUILDING EVACUATION.--The
7 state fire marshal shall prescribe reasonable rules and
8 programs for the teaching to all schoolchildren in the state,
9 whether in public or private schools, the proper methods of
10 fire prevention and control. Such rules and programs shall
11 be submitted to the public education department on or before
12 August 1 of each year. Among other things, such rules and
13 programs shall prescribe drills for evacuating school
14 buildings."

15 SECTION 35. Section 59A-52-8 NMSA 1978 (being Laws
16 1984, Chapter 127, Section 954) is amended to read:

17 "59A-52-8. INVESTIGATION OF FIRE HAZARDS--
18 ABATEMENT.--The state fire marshal is authorized to make
19 investigations, or require the marshal's deputy to make
20 investigations, and reports of existing conditions in the
21 state that are fire hazards and to make reasonable orders for
22 the alleviation of such situations as the marshal may deem
23 necessary. If the orders of the marshal are not carried out
24 by persons to whom they are directed, the marshal shall
25 institute proper proceedings under municipal ordinances or

1 state laws to require compliance with the orders, as the
2 marshal may deem necessary."

3 SECTION 36. Section 59A-52-9 NMSA 1978 (being Laws
4 1984, Chapter 127, Section 955) is amended to read:

5 "59A-52-9. MAY ENTER UPON PREMISES.--The state fire
6 marshal or the marshal's deputy, authorized officer or
7 designated agent shall have authority at all normal hours of
8 operation to enter in and upon all buildings and premises
9 subject to Chapter 59A, Article 52 NMSA 1978 for the purpose
10 of examination and inspection."

11 SECTION 37. Section 59A-52-10 NMSA 1978 (being Laws
12 1984, Chapter 127, Section 956) is amended to read:

13 "59A-52-10. INVESTIGATION OF FIRES AND EXPLOSIONS--
14 HEARINGS--USE OF STATE POLICE LABORATORY.--The state fire
15 marshal or the marshal's deputies or employees are authorized
16 to make investigations deemed necessary of any fire or
17 explosion or attempt to cause any fire or explosion in the
18 state. The marshal is authorized to require reports from the
19 marshal's deputies concerning all fires and explosions in
20 their districts. For the purpose of such investigations, the
21 marshal and the marshal's deputies or designated persons are
22 authorized to conduct hearings, subpoena witnesses, take
23 testimony and enter upon and examine any building or premises
24 where any fire or explosion or attempt to cause a fire or
25 explosion shall have occurred, or which at the time may be

1 burning. The marshal or the marshal's deputies or designated
2 persons shall also have the power to cause to be produced
3 before them such papers as they may require in making such
4 examination. In addition, the marshal or the marshal's
5 deputies or designated persons may, in their discretion, take
6 full control and custody of such buildings and premises, and
7 place someone in charge of the building and premises as they
8 may deem proper, until their examination and investigation is
9 completed. For evaluation of the evidence, the marshal shall
10 have access to the facilities and personnel of the department
11 of public safety forensic laboratories bureau, and the
12 executive head of the bureau shall cooperate fully with the
13 marshal."

14 **SECTION 38.** Section 59A-52-11 NMSA 1978 (being Laws
15 1984, Chapter 127, Section 957) is amended to read:

16 "59A-52-11. WITNESSES--PER DIEM AND MILEAGE.--Witnesses
17 or persons subpoenaed pursuant to Chapter 59A, Article 52
18 NMSA 1978 shall be paid at per diem and mileage rates on the
19 same bases and at the same rates as currently apply as to
20 state employees in general."

21 **SECTION 39.** Section 59A-52-12 NMSA 1978 (being Laws
22 1984, Chapter 127, Section 958) is amended to read:

23 "59A-52-12. RECORDS OF FIRES OPEN TO PUBLIC.--The state
24 fire marshal shall keep open to public inspection, at
25 reasonable hours, all records of fires occurring within the

1 state."

2 SECTION 40. Section 59A-52-13 NMSA 1978 (being Laws
3 1984, Chapter 127, Section 959) is amended to read:

4 "59A-52-13. TRANSMITTAL OF EVIDENCE INDICATING CRIMINAL
5 ACTS.--The state fire marshal shall furnish to the proper law
6 enforcement officers any evidence that the marshal may
7 discover in the marshal's investigations that indicates
8 criminal acts."

9 SECTION 41. Section 59A-52-14 NMSA 1978 (being Laws
10 1984, Chapter 127, Section 960) is amended to read:

11 "59A-52-14. APPROPRIATIONS.--For the purposes of
12 Chapter 59A, Article 52 NMSA 1978, an appropriation to the
13 homeland security and emergency management department shall
14 be included in the general appropriation act of each
15 legislature, the appropriation to be made from the fire
16 protection fund, which funds are to be paid out by the
17 secretary of finance and administration on vouchers signed by
18 the secretary of homeland security and emergency management."

19 SECTION 42. Section 59A-52-15 NMSA 1978 (being Laws
20 1984, Chapter 127, Section 961) is amended to read:

21 "59A-52-15. FIRE PREVENTION--PUBLIC OCCUPANCIES
22 REGULATIONS.--

23 A. For prevention and control of fires, pursuant
24 to the State Rules Act, the state fire marshal shall
25 formulate, adopt and promulgate, and amend or revise rules

1 for fire prevention and safe conduct or use of public
2 occupancies and rules concerning the sale, servicing or use
3 of fire safety, prevention, detection or suppression
4 equipment or materials. For the purposes of this provision,
5 "public occupancies" consist of places of assembly,
6 educational occupancies, institutional occupancies,
7 residential occupancies consisting of four or more family
8 units, mercantile occupancies, office occupancies, industrial
9 occupancies, storage occupancies and miscellaneous structures
10 consisting of towers, underground structures and windowless
11 buildings and all buildings owned or occupied by the state
12 government or any political subdivision thereof or by
13 municipal governments.

14 B. The rules shall follow nationwide standards
15 except in the area of life safety codes, which shall be
16 compatible with the Uniform Building Code, as revised from
17 time to time, issued by the international conference of
18 building officials.

19 C. The rules shall allow reasonable provision
20 under which facilities in service prior to the effective date
21 of the rules and not in strict conformity therewith may be
22 continued in service. Nonconforming facilities in service
23 prior to the adoption of rules that are found by the state
24 fire marshal to constitute a distinct hazard to life or
25 property shall not be exempt from rules nor permitted to

1 continue in service."

2 SECTION 43. Section 59A-52-16 NMSA 1978 (being Laws
3 1984, Chapter 127, Section 962, as amended) is amended to
4 read:

5 "59A-52-16. FLAMMABLE LIQUIDS RULES--NATIONWIDE
6 STANDARDS--DEFINITION.--

7 A. The state fire marshal shall adopt rules for
8 the safe vehicular transportation, storage, handling and use
9 of flammable and combustible liquids; provided that the state
10 fire marshal shall not adopt any rule conflicting with the
11 jurisdiction of the department of environment over the
12 regulation of storage tanks pursuant to the Hazardous Waste
13 Act or the Ground Water Protection Act.

14 B. The rules shall be in keeping with the latest
15 generally recognized safety standards for flammable and
16 combustible liquids. Rules in substantial conformity with
17 the published standards of the national fire protection
18 association for vehicular transportation, storage, handling
19 and use of flammable and combustible liquids shall be deemed
20 to be in substantial conformity with the generally accepted
21 and recognized standards of safety concerning the same
22 subject matter.

23 C. The rules shall include reasonable provisions
24 under which facilities in service prior to the effective date
25 of the rules and not in strict conformity therewith may be

1 continued in service. Nonconforming facilities in service
2 prior to the adoption of the rules that are found by the
3 state fire marshal to constitute a distinct hazard to life or
4 property may not be excepted from the rules or permitted to
5 continue in service. For guidance in enforcement, the rules
6 may delineate those types of nonconformities that should be
7 considered distinctly hazardous and those nonconformities
8 that should be evaluated in light of local conditions. If
9 the need for compliance with any rule is conditioned on local
10 factors, the rules shall provide that reasonable notice be
11 given to the proprietor of the facility affected of intention
12 to evaluate the need for compliance and of the time and place
13 at which the proprietor may appear and offer evidence
14 thereon.

15 D. As used in Chapter 59A, Article 52 NMSA 1978,
16 the term "flammable liquid" means any liquid having a flash
17 point below one hundred degrees Fahrenheit, and "combustible
18 liquid" means any liquid having a flash point at or above one
19 hundred degrees Fahrenheit and below two hundred degrees
20 Fahrenheit."

21 **SECTION 44.** Section 59A-52-17 NMSA 1978 (being Laws
22 1984, Chapter 127, Section 963) is amended to read:

23 "59A-52-17. RULES--PUBLIC HEARING.--No rule shall be
24 adopted or revised under Section 59A-52-16 NMSA 1978 or made
25 effective until after public hearing thereon, of which at

1 least twenty days' written notice shall be given by certified
2 mail to each motor carrier, producer, refiner, distributor or
3 other person that shall have registered its name and mailing
4 address with the state fire marshal as a party interested in
5 such proceedings, and at which any such interested party may
6 appear and present testimony. Every such notice shall
7 contain a copy of each rule proposed for adoption or revision
8 pursuant to such hearing."

9 SECTION 45. Section 59A-52-18 NMSA 1978 (being Laws
10 1984, Chapter 127, Section 964) is amended to read:

11 "59A-52-18. RULES--STATEWIDE EFFECT--RESERVED POWER OF
12 MUNICIPALITIES--TRAINING.--

13 A. The rules promulgated pursuant to Chapter 59A,
14 Article 52 NMSA 1978 shall have uniform force and effect
15 throughout the state and no municipality or subdivision shall
16 enact or enforce any ordinances or rules inconsistent with
17 the statewide rules promulgated pursuant to that article.
18 Nothing in that article shall in any way impair the power of
19 any municipality to regulate the use of its land by zoning,
20 building codes or restricted fire district rules.

21 B. The state fire marshal shall offer training to
22 certified firefighters to assist with fire and fire safety
23 inspections."

24 SECTION 46. Section 59A-52-19 NMSA 1978 (being Laws
25 1984, Chapter 127, Section 965) is amended to read:

1 "59A-52-19. POLICE POWER OF STATE FIRE MARSHAL--
2 COOPERATION OF STATE OFFICERS.--

3 A. The state fire marshal or the marshal's deputy,
4 authorized officer or designated agent shall have full powers
5 as peace officers to enforce the provisions of Chapter 59A,
6 Article 52 NMSA 1978 and all rules issued pursuant to that
7 article.

8 B. The revenue officers and law enforcement
9 officers of the state shall cooperate with the marshal or the
10 marshal's deputy, authorized officer or designated agent
11 whenever called upon by any of them for assistance in
12 enforcing Chapter 59A, Article 52 NMSA 1978."

13 SECTION 47. Section 59A-52-20 NMSA 1978 (being Laws
14 1984, Chapter 127, Section 966) is amended to read:

15 "59A-52-20. CEASE AND DESIST ORDERS--CERTAIN VIOLATIONS
16 ARE MISDEMEANORS.--

17 A. When the state fire marshal or the marshal's
18 deputy, authorized officer or designated agent finds any
19 violation of the rules issued in compliance with Chapter 59A,
20 Article 52 NMSA 1978, the marshal or the marshal's deputy,
21 authorized officer or designated agent shall issue an order
22 to the owner or the owner's agent to cease and desist such
23 violations.

24 B. When there is found any violation of any
25 statute or rules concerning flammable liquids, a cease and

1 desist order shall be issued if the violation constitutes an
2 immediate and distinct hazard to life or property, and any
3 such violation shall constitute a misdemeanor punishable by a
4 fine not to exceed five hundred dollars (\$500). Each day
5 such violation continues constitutes a separate offense."

6 SECTION 48. Section 59A-52-21 NMSA 1978 (being Laws
7 1984, Chapter 127, Section 967, as amended) is amended to
8 read:

9 "59A-52-21. ADMINISTRATIVE APPEAL OF ORDERS AND
10 MODIFICATIONS.--Any person aggrieved by any order of the
11 state fire marshal or the marshal's deputy, authorized
12 officer or designated agent may appeal to the fire services
13 council within ten days from the date of the service of such
14 order. The council shall hear such party within twenty days
15 after receipt of an appeal request and shall give not less
16 than ten days' written notice of the hearing. Within fifteen
17 days after such hearing, the council shall file its decision
18 and, unless by its authority the order is revoked or
19 modified, the order shall be complied with within the time
20 fixed in the decision, with such time to be not less than
21 thirty days."

22 SECTION 49. Section 59A-52-23 NMSA 1978 (being Laws
23 1984, Chapter 127, Section 969, as amended) is amended to
24 read:

25 "59A-52-23. ENFORCEMENT OF CEASE AND DESIST ORDERS.--

1 After expiration of time for an administrative appeal, and if
2 no such appeal has been taken, the state fire marshal may
3 commence an action in the district court for Santa Fe county
4 to enforce the cease and desist order by injunction or other
5 appropriate remedy as the district court may adjudge. The
6 fire services council may likewise commence an action in the
7 district court for Santa Fe county to enforce its decision
8 rendered on appeal from the cease and desist order of the
9 state fire marshal."

10 SECTION 50. Section 59A-52-24 NMSA 1978 (being Laws
11 1984, Chapter 127, Section 970) is amended to read:

12 "59A-52-24. PENALTY FOR VIOLATION OF LAW OR
13 RULES.--Violation of any of the provisions of Chapter 59A,
14 Article 52 NMSA 1978 or of any of the rules lawfully enacted
15 pursuant to that article shall constitute a misdemeanor for
16 which the punishment shall be a fine of not more than five
17 hundred dollars (\$500). Each day any such violation
18 continues shall constitute a separate offense."

19 SECTION 51. Section 59A-52-25 NMSA 1978 (being Laws
20 1984, Chapter 127, Section 971) is amended to read:

21 "59A-52-25. PENALTY FOR VIOLATION OF CEASE AND DESIST
22 ORDER.--Any person, firm or corporation that violates any
23 final cease and desist order shall be subject to a penalty in
24 the sum of five hundred dollars (\$500) for each day such
25 violation continues. The attorney general is empowered to

1 bring a civil suit for the enforcement of this section on the
2 relation of the state fire marshal."

3 SECTION 52. A new section of Chapter 59A, Article 52
4 NMSA 1978 is enacted to read:

5 "STATE FIRE MARSHAL--APPOINTMENT--POWERS AND DUTIES.--

6 A. The state fire marshal shall be appointed by
7 the secretary of homeland security and emergency management.
8 The state fire marshal shall be appointed solely on the basis
9 of fitness to perform the duties of state fire marshal and
10 without reference to political party affiliation. The state
11 fire marshal shall be well versed in fire services, including
12 structural fires, training, investigations and code
13 enforcement, as well as administrative duties, including
14 personnel, operating budgets and capital planning and
15 expenditures. The state fire marshal shall have an
16 understanding of insurance services office requirements,
17 wildland firefighting and legislative advocacy.

18 B. The state fire marshal shall be an at-will
19 employee and is exempt from the federal Fair Labor Standards
20 Act of 1938.

21 C. The state fire marshal shall:

22 (1) oversee and manage the state fire
23 marshal's office and direct its activities;

24 (2) promulgate rules pursuant to the State
25 Rules Act relating to the state fire marshal's office and the

1 fire services council; and

2 (3) consider advice from the fire services
3 council concerning the adoption of fire safety management
4 policies of the state fire marshal's office."

5 SECTION 53. A new section of Chapter 59A, Article 52
6 NMSA 1978 is enacted to read:

7 "FIRE SERVICES COUNCIL CREATED--MEMBERSHIP.--

8 A. The "fire services council" is created to
9 advise the state fire marshal's office on fire and emergency
10 services policy. The council consists of ten members as
11 follows:

12 (1) the presiding officer or designee of
13 each of the:

14 (a) New Mexico fire chiefs association;

15 (b) fire and emergency managers
16 affiliate of New Mexico counties;

17 (c) New Mexico state firefighters
18 association;

19 (d) New Mexico emergency medical
20 technician association;

21 (e) New Mexico fire marshals
22 association;

23 (f) metro fire chiefs association; and

24 (g) New Mexico professional fire
25 fighters association;

1 (2) one person appointed by the governor;

2 (3) one person appointed by the president
3 pro tempore of the senate; and

4 (4) one person appointed by the speaker of
5 the house of representatives.

6 B. The fire services council shall select from
7 among its members a chair and vice chair, who shall serve
8 one-year terms. No member shall serve as chair or vice chair
9 for more than two consecutive years.

10 C. The fire services council shall meet as
11 frequently as necessary to conduct business or hold hearings
12 but no less than four times per year. A majority of members
13 of the council constitutes a quorum.

14 D. Council members shall be reimbursed for their
15 per diem and mileage expenses in accordance with the Per Diem
16 and Mileage Act. Council members shall otherwise serve
17 without compensation.

18 E. The fire services council is subject to the
19 Inspection of Public Records Act and the Open Meetings Act.
20 Individual members of the fire services council are subject
21 to the Governmental Conduct Act and the Financial Disclosure
22 Act.

23 F. An employee of the state fire marshal's office
24 who serves as staff for the fire services council shall not
25 reveal to any person, except another council staff person,

1 any requests or statements disclosed in confidence by a
2 council member, except that this restriction shall not apply
3 to any disclosure that is:

4 (1) protected pursuant to the Whistleblower
5 Protection Act; or

6 (2) required by law."

7 SECTION 54. A new section of Chapter 59A, Article 52
8 NMSA 1978 is enacted to read:

9 "FIRE SERVICES COUNCIL--DUTIES.--The fire services
10 council shall:

11 A. review and comment on proposed changes in fire
12 codes and the proposed budget of the state fire marshal's
13 office;

14 B. consider complaints regarding the performance
15 of the state fire marshal's office and make recommendations
16 to the state fire marshal;

17 C. provide to the secretary of homeland security
18 and emergency management a recommendation on the appointment
19 of the state fire marshal; and

20 D. hear administrative appeals of state fire
21 marshal or deputy state fire marshal orders and
22 modifications."

23 SECTION 55. Section 59A-53-7 NMSA 1978 (being Laws
24 1984, Chapter 127, Section 978, as amended) is amended to
25 read:

1 "59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

2 A. Based on periodic allotments approved by the
3 marshal, the state treasurer shall distribute from the money
4 in the fire protection fund, to each municipality and county
5 fire district, the amount that the marshal or the secretary
6 of homeland security and emergency management has certified
7 to the state treasurer. Payment shall be made to the
8 treasurer of any municipality and to the county treasurer of
9 the county in which any county fire district is located for
10 credit to the county fire district.

11 B. The state treasurer is authorized to redirect a
12 distribution to the New Mexico finance authority in the
13 amount that the marshal or the secretary of homeland security
14 and emergency management, as the case may be, has certified
15 to the state treasurer pursuant to an ordinance or a
16 resolution passed by the municipality or county and a written
17 agreement of the municipality or county in which any county
18 fire district is located and the New Mexico finance
19 authority.

20 C. In addition to the distributions made pursuant
21 to Subsections A and B of this section, upon certification by
22 the marshal that the balance of the firefighters' survivors
23 fund is less than two hundred fifty thousand dollars
24 (\$250,000), the state treasurer shall distribute an amount
25 from the fire protection fund to the firefighters' survivors

1 fund so that the balance of the firefighters' survivors fund
2 equals two hundred fifty thousand dollars (\$250,000)."

3 SECTION 56. Section 59A-53-19 NMSA 1978 (being Laws
4 2006, Chapter 103, Section 8, as amended) is amended to read:

5 "59A-53-19. FIRE PROTECTION GRANT COUNCIL--DUTIES.--

6 A. The "fire protection grant council" is created.
7 The council consists of:

8 (1) a representative of the New Mexico
9 municipal league;

10 (2) a representative of New Mexico counties;

11 (3) two members appointed by the fire
12 services council, who shall serve at the pleasure of the
13 council;

14 (4) three members, one from each
15 congressional district, appointed by the governor who shall
16 serve at the pleasure of the governor; and

17 (5) the marshal, who shall serve as a
18 nonvoting advisory member. The council shall elect a chair
19 and vice chair from its membership.

20 B. The public members are entitled to receive per
21 diem and mileage as provided in the Per Diem and Mileage Act
22 and shall receive no other compensation, perquisite or
23 allowance.

24 C. The council shall develop criteria for
25 assessing the critical needs of municipal fire departments

1 and county fire districts for:

- 2 (1) fire apparatus and equipment;
- 3 (2) communications equipment;
- 4 (3) equipment for wildfires;
- 5 (4) fire station construction or expansion;
- 6 (5) equipment for hazardous material

7 response; and

8 (6) stipends for volunteer firefighters in
9 underserved areas.

10 D. Applications for grant assistance from the fire
11 protection grant fund shall be made by fire districts to the
12 council in accordance with the requirements of the council.

13 Using criteria developed by the council, the council shall
14 evaluate applications and prioritize those applications most
15 in need of grant assistance from the fund. To the extent
16 that money in the fund is available, the council shall award
17 grant assistance for those prioritized applications.

18 E. In awarding grant assistance, the council may
19 require conditions and procedures necessary to ensure that
20 the money is expended in the most prudent manner.

21 F. When considering applications for grant
22 assistance to pay stipends to volunteer firefighters in
23 underserved areas, the council shall:

- 24 (1) define "underserved area";
- 25 (2) ensure the proposed stipends will comply

1 with the federal Fair Labor Standards Act of 1938 and United
2 States department of labor requirements for maintaining
3 volunteer status;

4 (3) require a basic level of training before
5 a volunteer may receive a stipend;

6 (4) consider whether the fire district
7 requires a service commitment from its volunteer firefighters
8 in exchange for stipends; and

9 (5) weight the applications against other
10 criteria or requirements determined by the council."

11 **SECTION 57. TEMPORARY PROVISION--RECOMPILATION**

12 INSTRUCTION.--The compiler shall recompile Section 8-8-9.1
13 NMSA 1978 (being Laws 2001, Chapter 80, Section 1) in Chapter
14 59A, Article 52 NMSA 1978.

15 **SECTION 58. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,**
16 **PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND**
17 **REFERENCES IN LAW.--**

18 A. On July 1, 2021, all staff positions,
19 functions, personnel, appropriations, money, records,
20 equipment, supplies, other property and contractual
21 obligations of the fire marshal division of the public
22 regulation commission are transferred to the state fire
23 marshal's office of the homeland security and emergency
24 management department.

25 B. Beginning on July 1, 2021, all references in

1 law, rules, orders and other official acts to the fire
2 marshal division of the public regulation commission shall be
3 deemed references to the state fire marshal's office of the
4 homeland security and emergency management department.

5 C. Beginning on July 1, 2021, all contractual
6 obligations of the fire marshal division of the public
7 regulation commission are binding on the state fire marshal's
8 office of the homeland security and emergency management
9 department.

10 **SECTION 59. TEMPORARY PROVISION--RECOMPILATION.--**

11 Sections 8-8-4 through 8-8-8, 8-8-10 through 8-8-17 and 8-8-
12 20 NMSA 1978 (being Laws 1998, Chapter 108, Section 4; Laws
13 2009, Chapter 216, Section 1; Laws 1998, Chapter 108,
14 Sections 5 through 8 and 10 through 12; Laws 2000, Chapter
15 100, Section 1 and Laws 2000, Chapter 102, Section 1; and
16 Laws 1998, Chapter 108, Sections 13 through 17 and 20, as
17 amended) are recompiled as part of the Public Regulation
18 Commission Act.

19 **SECTION 60. REPEAL.--Sections 8-7-1 through 8-7-11 NMSA**

20 1978 (being Laws 1997, Chapter 262, Sections 1 through 5 and
21 Laws 2001 (1st S.S.), Chapter 3, Section 8, as amended) are
22 repealed.

23 **SECTION 61. REPEAL.--Section 8-8-9.3 (being Laws 2007,**

24 Chapter 161, Section 4) is repealed.

25 **SECTION 62. EFFECTIVE DATE.--The effective date of the**

1 provisions of Sections 21, 25 through 58 and 61 of this act
2 is July 1, 2021.

3 SECTION 63. CONTINGENT EFFECTIVE DATE.--The provisions
4 of Sections 1 through 20, 22 through 24, 59 and 60 of this
5 act shall become effective on the following dates upon
6 certification by the secretary of state that the constitution
7 of New Mexico has been amended as proposed by a joint
8 resolution of the first session of the fifty-fourth
9 legislature, entitled "A JOINT RESOLUTION PROPOSING TO AMEND
10 THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT THE PUBLIC
11 REGULATION COMMISSION CONSIST OF THREE MEMBERS APPOINTED BY
12 THE GOVERNOR FROM A LIST OF PROFESSIONALLY QUALIFIED NOMINEES
13 SUBMITTED TO THE GOVERNOR BY A NOMINATING COMMITTEE AS
14 PROVIDED BY LAW AND THAT THE COMMISSION IS REQUIRED TO
15 REGULATE PUBLIC UTILITIES AND MAY BE REQUIRED TO REGULATE
16 OTHER PUBLIC SERVICE COMPANIES". If the certification
17 occurs, the effective date of the provisions of:

18 A. Sections 1 through 17, 19, 20, 22 through 24,
19 59 and 60 of this act is January 1, 2023; and

20 B. Section 18 of this act is January 1, 2022. _____ HJC/HB 386/a
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