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SENATE BILL 99

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO THE PUBLIC REGULATION COMMISSION; REMOVING
REFERENCES TO THE ELECTION OF COMMISSION MEMBERS; PROVIDING FOR
A DELAYED EFFECTIVE DATE CONTINGENT ON AMENDMENT OF THE
CONSTITUTION OF NEW MEXICO TO PROVIDE FOR APPOINTMENT OF
COMMISSION MEMBERS FROM THE STATE AT LARGE; MAKING TECHNICAL
CONFORMING CHANGES; AMENDING AND REPEALING SECTIONS OF THE NMSA
1978.

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

SECTION 1. Section 1-8-2 NMSA 1978 (being Laws 1969,
Chapter 240, Section 152, as amended by Laws 2014, Chapter 40,
Section 3 and by Laws 2014, Chapter 81, Section 3) is amended
to read:

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

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1 A. If the rules of a minor political party require
2 nomination by political convention:

3 (1) the chair and secretary of the state
4 political convention shall certify to the secretary of state
5 the names of their party's nominees for United States senator,
6 United States representative, all elective state offices,
7 legislative offices elected from multicounty districts, [~~the~~
8 ~~public regulation commission~~] all elective judicial officers in
9 the judicial department and all offices representing a district
10 composed of more than one county; and

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

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

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

24 (2) in the district for offices other than
25 statewide offices.

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1 The petition shall contain a statement that the voters
2 signing the petition are residents of the area to be
3 represented by the office for which the person being nominated
4 is a candidate.

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

- 12 (1) in the county for countywide offices; and
13 (2) in the district for offices other than
14 countywide offices.

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

19 D. Except in the case of a political party
20 certified in the year of the election, persons certified as
21 candidates shall be members of that party on the day the
22 governor issues the primary election proclamation.

23 E. When a political party is certified in the year
24 of the general election, and after the day the governor issues
25 the primary election proclamation, a person certified as a

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1 candidate shall be:

2 (1) a member of that party not later than the
3 date the political party filed its rules and qualifying
4 petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

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

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

19 SECTION 2. Section 1-8-3 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 153, as amended) is amended to read:

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

25 A. the state [~~chairman~~] chair and the governing

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1 board of the state party shall certify to the secretary of
2 state the names of their party's nominees for United States
3 senator, United States representative, all elective state
4 offices, legislative offices elected from multicounty
5 districts, [~~public regulation commission~~] all elective judicial
6 officers in the judicial department and all offices
7 representing a district composed of more than one county;

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

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

19 SECTION 3. Section 1-8-13 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 162, as amended) is amended to read:

21 "1-8-13. PRIMARY ELECTION LAW--CONTENTS OF
22 PROCLAMATION.--

23 A. The proclamation calling a primary election
24 shall contain:

25 [~~A.~~] (1) the names of the major political

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1 parties participating in the primary election;

2 [B-] (2) the offices for which each political
3 party shall nominate candidates; provided that if any law is
4 enacted by the legislature in the year in which the primary
5 election is held and the law does not take effect until after
6 the date of the proclamation but prior to the date of the
7 primary election, the proclamation shall conform to the intent
8 of the law with respect to the offices for which each political
9 party shall nominate candidates;

10 [G-] (3) the date on which declarations of
11 candidacy and nominating petitions for United States
12 representative, any office voted upon by all the voters of the
13 state, a legislative office, the office of district judge,
14 district attorney, [~~state board of~~] public education [~~public~~
15 ~~regulation~~] commission or magistrate shall be filed and the
16 places where they shall be filed in order to have the
17 candidates' names printed on the official ballot of their party
18 at the primary election;

19 [D-] (4) the date on and place at which
20 declarations of candidacy shall be filed for any other office
21 and filing fees paid or, in lieu thereof, a pauper's statement
22 of inability to pay;

23 [E-] (5) the final date on and place at which
24 candidates for the office of United States representative and
25 for any statewide office seeking preprimary convention

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

3 ~~[F-]~~ (6) the final date on which the major
4 political parties shall hold state preprimary conventions for
5 the designation of candidates; and

6 ~~[G-]~~ (7) 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 B. As used in the Primary Election Law, "statewide
11 office" means ~~[any]~~ an office voted on by all the voters of the
12 state."

13 **SECTION 4.** Section 1-8-25 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 170, as amended) is amended to read:

15 "1-8-25. PROPER FILING OFFICER--DECLARATION OF
16 CANDIDACY--NOMINATING PETITIONS--WITHDRAWAL OF CANDIDACY.--For
17 the purposes of Chapter 1, Articles 8 and 12 NMSA 1978, the
18 proper filing officer is:

- 19 A. the secretary of state for the offices of:
- 20 (1) United States senator;
 - 21 (2) United States representative;
 - 22 (3) all state elective offices;
 - 23 (4) legislative offices elected from
24 multicounty districts;

25 ~~[(5) all public regulation commission~~

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1 ~~districts;~~

2 ~~(6)~~ (5) all elective judicial offices in the
3 judicial department, except magistrates; and

4 ~~[(7)]~~ (6) all offices representing a district
5 composed of more than one county; and

6 B. the county clerk for the offices of:

7 (1) all elective county offices;

8 (2) magistrates; and

9 (3) legislative offices elected from a
10 district located wholly within one county or that is composed
11 of only one county."

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

14 "1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--
15 NUMBER OF SIGNATURES REQUIRED.--

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

20 B. Candidates who seek preprimary convention
21 designation shall file nominating petitions at the time of
22 filing declarations of candidacy. Nominating petitions for
23 those candidates shall be signed by a number of voters equal to
24 at least two percent of the total vote of the candidate's party
25 in the state or congressional district, or the following number

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1 of voters, whichever is greater: for statewide offices, two
2 hundred thirty voters; and for congressional candidates,
3 seventy-seven voters.

4 C. Nominating petitions for candidates for any
5 other office to be voted on at the primary election for which
6 nominating petitions are required shall be signed by a number
7 of voters equal to at least three percent of the total vote of
8 the candidate's party in the district or division, or the
9 following number of voters, whichever is greater: for
10 metropolitan court and magistrate courts, ten voters; ~~[for the~~
11 ~~public regulation commission, fifty voters]~~ for the public
12 education commission, twenty-five voters; for state
13 representative, ten voters; for state senator, seventeen
14 voters; and for district attorney and district judge, fifteen
15 voters.

16 D. A candidate who fails to receive the preprimary
17 convention designation that the candidate sought may collect
18 additional signatures to total at least four percent of the
19 total vote of the candidate's party in the state or
20 congressional district, whichever applies to the office the
21 candidate seeks, and file a new declaration of candidacy and
22 nominating petitions for the office for which the candidate
23 failed to receive a preprimary designation. The declaration of
24 candidacy and nominating petitions shall be filed with the
25 secretary of state either ten days following the date of the

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1 preprimary convention at which the candidate failed to receive
2 the designation or on the date all declarations of candidacy
3 and nominating petitions are due pursuant to the provisions of
4 the Primary Election Law, whichever is later."

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

7 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

8 A. Write-in candidates are permitted in the primary
9 election only for the offices of United States representative,
10 members of the legislature, district judges, district
11 attorneys, ~~[public regulation commission]~~ public education
12 commission, magistrates and any office voted upon by all voters
13 of the state.

14 B. A person may be a write-in candidate only for
15 nomination by the major political party with which the person
16 is affiliated as shown by the certificate of registration, and
17 such person shall have the qualifications to be a candidate in
18 the primary election for the political party for which the
19 person is a write-in candidate.

20 C. A person desiring to be a write-in candidate for
21 one of the offices listed in Subsection A of this section in
22 the primary election shall file with the proper filing officer
23 a declaration of intent to be a write-in candidate. Such
24 declaration of intent shall be filed between 9:00 a.m. and 5:00
25 p.m. on the third Tuesday in March.

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1 D. A write-in vote shall be counted and canvassed
2 only if:

3 (1) the name written in is the name of a
4 declared write-in candidate and shows two initials and last
5 name; first name, middle initial or name and last name; first
6 and last name; or the full name as it appears on the
7 declaration of intent to be a write-in candidate and
8 misspellings of the above combinations that can be reasonably
9 determined by a majority of the members of the precinct board
10 to identify a declared write-in candidate; and

11 (2) the name is written on the proper line
12 provided on the ballot for write-in votes for the office for
13 which the candidate has filed a declaration of intent and the
14 voter has followed the directions for casting a vote for the
15 write-in candidate.

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

23 F. No unopposed write-in candidate shall have the
24 write-in candidate's nomination certified unless the write-in
25 candidate receives at least the number of write-in votes in the

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1 primary election as the write-in candidate would need
2 signatures on a nominating petition pursuant to the
3 requirements set out in Section 1-8-33 NMSA 1978.

4 G. A write-in vote shall be cast by writing in the
5 name and following the directions for casting a vote for the
6 write-in candidate. As used in this section, "write-in" does
7 not include the imprinting of any name by rubber stamp or
8 similar device or the use of pre-printed stickers or labels."

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

11 "1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
12 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING
13 PETITIONS--REQUIRED NUMBER OF SIGNATURES.--

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

18 B. Nominating petitions for an independent
19 candidate for president of the United States shall be signed by
20 a number of voters equal to at least three percent of the total
21 number of votes cast in the state.

22 C. Nominating petitions for an independent
23 candidate for United States senator or any other statewide
24 elective office shall be signed by a number of voters equal to
25 at least three percent of the total number of votes cast in the

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1 state.

2 D. Nominating petitions for an independent
3 candidate for United States representative shall be signed by a
4 number of voters equal to at least three percent of the total
5 number of votes cast in the district.

6 E. Nominating petitions for an independent
7 candidate for a member of the legislature, [~~public regulation~~
8 ~~commission~~] district judge, district attorney, member of the
9 [~~state board of~~] public education commission, magistrate or
10 county office shall be signed by a number of voters equal to at
11 least three percent of the total number of votes cast in the
12 district, division or county, as the case may be.

13 F. A voter shall not sign a petition for an
14 independent candidate as provided in this section if [~~he~~] the
15 voter has signed a petition for another independent candidate
16 for the same office."

17 SECTION 8. Section 1-19A-10 NMSA 1978 (being Laws 2003,
18 Chapter 14, Section 10, as amended) is amended to read:

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

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

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

24 (2) paying administrative and enforcement
25 costs of the Voter Action Act; and

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

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

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

10 (1) qualifying contributions that have been
11 submitted to the secretary;

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

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

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

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

24 (6) money distributed to the fund from funds
25 received pursuant to the Uniform Unclaimed Property Act (1995);

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1 and

2 (7) money appropriated by the legislature.

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

7 ~~E. Two hundred thousand dollars (\$200,000) per year~~
8 ~~shall be collected and deposited in the subaccount for public~~
9 ~~regulation commission elections as follows:~~

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

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

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

18 "8-1-1. COMPENSATION OF [ELECTIVE] STATE OFFICERS.--

19 A. Annual compensation of [elective] state officers
20 shall be paid as follows:

21	governor	\$110,000
22	secretary of state	85,000
23	state auditor	85,000
24	state treasurer	85,000
25	attorney general	95,000

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1 commissioner of public lands 90,000
2 public regulation commissioner 90,000.

3 B. Any person succeeding to the office of governor
4 as provided in Article 5, Section 7 of the constitution of New
5 Mexico shall receive the salary of the office. Every person
6 serving as acting governor during the incapacity or absence of
7 the governor from the state, other than the secretary of state,
8 shall receive two hundred fifty dollars (\$250) as compensation
9 for each day's service as acting governor.

10 C. All compensation under this section shall be
11 paid from the general fund, except that the amount paid to the
12 commissioner of public lands shall be paid from the state lands
13 maintenance fund."

14 SECTION 10. Section 8-8-2 NMSA 1978 (being Laws 1998,
15 Chapter 108, Section 2) is amended to read:

16 "8-8-2. DEFINITIONS.--As used in the Public Regulation
17 Commission Act:

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

20 B. "commissioner" means a person [~~elected or~~]
21 appointed to the public regulation commission; and

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

25 SECTION 11. Section 8-8-3 NMSA 1978 (being Laws 1998,

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1 Chapter 108, Section 3) is amended to read:

2 "8-8-3. 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 five commissioners [~~elected from districts~~]
6 appointed from the state at large as provided in that article
7 [~~and the Public Regulation Commission Apportionment Act~~].

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

12 SECTION 12. Section 8-8-3.1 NMSA 1978 (being Laws 2013,
13 Chapter 64, Section 1) is amended to read:

14 "8-8-3.1. QUALIFICATIONS OF COMMISSIONERS.--

15 A. In addition to other requirements imposed by
16 law, in order to be [~~elected or~~] appointed as a commissioner, a
17 person must be qualified for office by:

18 (1) having at least ten years of professional
19 experience in an area regulated by the commission or in the
20 energy sector and involving a scope of work that includes
21 accounting, public or business administration, economics,
22 finance, statistics, engineering or law; or

23 (2) having a total of ten years of combined
24 professional experience as described in Paragraph (1) of this
25 subsection and higher education resulting in at least a

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1 professional license or a baccalaureate degree from an
2 institution of higher education that has been accredited by a
3 regional or national accrediting body in an area regulated by
4 the commission, including accounting, public or business
5 administration, economics, finance, statistics, engineering or
6 law [~~or~~

7 ~~(3) holding the office of commissioner on~~
8 ~~January 1, 2013].~~

9 B. As used in this section, "professional
10 experience" means employment in which the [~~candidate or~~]
11 prospective appointee for commissioner regularly made decisions
12 requiring discretion and independent judgment and:

13 (1) engaged in policy analysis, research or
14 implementation in an area regulated by the commission or in the
15 energy sector;

16 (2) managed, as the head, deputy head or
17 division director, a federal, state, tribal or local government
18 department or division responsible for utilities,
19 transportation or construction; or

20 (3) managed a business or organization
21 regulated by the commission or in the energy sector that had
22 five or more employees during the time it was managed by the
23 candidate or prospective appointee.

24 [~~G. A candidate for election to the office of~~
25 ~~commissioner shall certify by notarized affidavit that the~~

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1 ~~candidate meets the requirements of Subsection A of this~~
2 ~~section to be filed with the declaration of candidacy.~~

3 ~~D. A voter may challenge the candidacy for election~~
4 ~~to the office of commissioner of any person seeking nomination~~
5 ~~for the reason that the person seeking nomination does not meet~~
6 ~~the requirements of Subsection A of this section. The~~
7 ~~challenge shall be made by filing a petition in the district~~
8 ~~court within ten days after the last day for filing a~~
9 ~~declaration of candidacy or a statement of candidacy for~~
10 ~~convention designation, which petition shall be heard in the~~
11 ~~same manner as provided in Subsection F of Section 1-8-26 NMSA~~
12 ~~1978.]"~~

13 SECTION 13. Section 8-8-19 NMSA 1978 (being Laws 1998,
14 Chapter 108, Section 19) is amended to read:

15 "8-8-19. PROHIBITED ACTS--CANDIDATES--COMMISSIONERS AND
16 EMPLOYEES.--

17 A. As used in this section, in addition to the
18 definitions provided in Section [2 of the Public Regulation
19 Commission Act] 8-8-2 NMSA 1978:

20 (1) "affiliated interest" means a person who
21 directly controls or is controlled by or is under common
22 control with a regulated entity, including an agent,
23 representative, attorney, employee, officer, owner, director or
24 partner of an affiliated interest. For the purposes of this
25 definition, "control" includes the possession of the power to

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1 direct or cause the direction of the management and policies of
2 a person, whether directly or indirectly, through the
3 ownership, control or holding with the power to vote of ten
4 percent or more of the person's voting securities;

5 (2) "intervenor" means a person who is
6 intervening as a party in an adjudicatory matter or commenting
7 in a rulemaking pending before the commission or has intervened
8 in an adjudicatory or rulemaking matter before the commission
9 within the preceding twenty-four months, including an agent,
10 representative, attorney, employee, officer, owner, director,
11 partner or member of an intervenor;

12 (3) "pecuniary interest" includes owning or
13 controlling securities; serving as an officer, director,
14 partner, owner, employee, attorney or consultant; or otherwise
15 benefiting from a business relationship. "Pecuniary interest"
16 does not include an investment in a mutual fund or similar
17 third-party-controlled investment, pension or disability
18 benefits or an interest in capital credits of a rural electric
19 cooperative or telephone cooperative because of current or past
20 patronage; and

21 (4) "regulated entity" means a person whose
22 charges for services to the public are regulated by the
23 commission and includes any direct or emerging competitors of a
24 regulated entity and includes an agent, representative,
25 attorney, employee, officer, owner, director or partner of the

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1 regulated entity.

2 B. In addition to the requirements of the Financial
3 Disclosure Act and the Governmental Conduct Act, candidates for
4 the commission, commissioners and employees of the commission
5 shall comply with the requirements of this section and Sections
6 [~~17 and 18 of the Public Regulation Commission Act~~] 8-8-17 and
7 8-8-18 NMSA 1978, as applicable.

8 [~~G. A candidate for election to the public~~
9 ~~regulation commission shall not solicit or accept:~~

10 (1) ~~anything of value, either directly or~~
11 ~~indirectly, from a person whose charges for services to the~~
12 ~~public are regulated by the commission. For the purposes of~~
13 ~~this paragraph, "anything of value" includes money, in-kind~~
14 ~~contributions and volunteer services to the candidate or his~~
15 ~~campaign organization, but does not include pension or~~
16 ~~disability benefits; or~~

17 (2) ~~more than five hundred dollars (\$500) per~~
18 ~~election from any other person.~~

19 ~~D.]~~ C. A commissioner or employee of the commission
20 shall not:

21 (1) accept anything of value from a regulated
22 entity, affiliated interest or intervenor. [~~For the purposes~~
23 ~~of this paragraph, a commissioner may accept allowable campaign~~
24 ~~contributions when campaigning for reelection.] For the
25 purposes of this paragraph, "anything of value" does not~~

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1 include:

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

6 (b) inexpensive promotional items that
7 are available to all customers of the regulated entity,
8 affiliated interest or intervenor; or

9 (c) pension or disability benefits
10 received from a regulated entity, affiliated interest or
11 intervenor;

12 (2) have a pecuniary interest in a regulated
13 entity, affiliated interest or intervenor, and if a pecuniary
14 interest in an intervenor develops, the commissioner or
15 employee shall divest [~~himself of~~] that interest or recuse
16 [~~himself~~] the commissioner or employee from the proceeding with
17 the intervenor interest; or

18 (3) solicit any regulated entity, affiliated
19 interest or intervenor to appoint a person to a position or
20 employment in any capacity.

21 [~~E.~~] D. After leaving the commission:

22 (1) a former commissioner shall not be
23 employed or retained in a position that requires appearances
24 before the commission by a regulated entity, affiliated
25 interest or intervenor within two years of [~~his~~] the former

.211972.1

underscored material = new
[bracketed material] = delete

1 commissioner's separation from the commission;

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

6 (3) a former commissioner or employee shall
7 not represent a party before the commission or a court in a
8 matter that was pending before the commission while the
9 commissioner or employee was associated with the commission and
10 in which [~~he~~] the former commissioner or employee was
11 personally and substantially involved in the matter.

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

21 **SECTION 14. REPEAL.**--Sections 8-7-1 through 8-7-5 and
22 8-7-11 NMSA 1978 (being Laws 1997, Chapter 262, Sections 1
23 through 5 and Laws 2001 (1st S.S.), Chapter 3, Section 8, as
24 amended) are repealed.

25 **SECTION 15. CONTINGENT EFFECTIVE DATE.**--The provisions of
.211972.1

underscoring = new
~~[bracketed material]~~ = delete

1 this act shall become effective upon certification by the
2 secretary of state that the constitution of New Mexico has been
3 amended as proposed by a joint resolution of the first session
4 of the fifty-fourth legislature, entitled "A JOINT RESOLUTION
5 PROPOSING TO AMEND ARTICLE 11 OF THE CONSTITUTION OF NEW MEXICO
6 BY REPEALING SECTION 1 AND ADDING A NEW SECTION 1 TO PROVIDE
7 FOR THE TRANSITION TO A FIVE-MEMBER FULL-TIME PUBLIC REGULATION
8 COMMISSION THAT IS APPOINTED FROM THE STATE AT LARGE".

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