

HOUSE STATE GOVERNMENT, INDIAN AND
VETERANS AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 10

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

AN ACT

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

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

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

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

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

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

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

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

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

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

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

1 board;

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

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

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

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

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

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

.206074.2

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

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

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

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

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

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

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

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

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

25 (2) three members appointed by majority vote

1 of all members of the board of commissioners of the state bar
2 of New Mexico, of which at least one member shall be appointed
3 from each congressional district;

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

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

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

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

15 D. Appointments shall be made as follows:

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

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

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

25 (2) by the second Tuesday in June of each odd-

.206074.2

1 numbered year, one board member shall be appointed by the
2 governor; and

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

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

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

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

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

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

11 SECTION 4. [NEW MATERIAL] BOARD MEMBERS--QUALIFICATIONS--
12 LIMITATIONS.--

13 A. To qualify for appointment to the board, a
14 person shall:

15 (1) be a resident of New Mexico for at least
16 four years;

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

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

23 (4) if appointed by the chief justice of the
24 supreme court, be a retired judge.

25 B. Before entering upon the duties of the office of

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

5 C. A board member shall not:

6 (1) seek or hold an office or act as a leader
7 in a qualified political party or a political committee as
8 defined in the Campaign Reporting Act;

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

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

13 (4) be employed or contracted by a political
14 committee as defined in the Campaign Reporting Act or a person
15 in that person's capacity as a candidate for public office;

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

19 (6) make speeches on behalf of a political
20 committee, as defined in the Campaign Reporting Act; or

21 (7) solicit funds for, pay an assessment to or
22 make a contribution to a candidate or a political committee, as
23 defined in the Campaign Reporting Act.

24 D. A violation of Subsection C of this section may
25 be found to constitute malfeasance in office in a removal

1 proceeding pursuant to Subsection I of Section 3 of the Public
2 Accountability Act.

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

4 A. The board shall:

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

7 (2) receive and investigate complaints;

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

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

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

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

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

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

.206074.2

1 (9) draft a proposed code of public
2 accountability and submit the proposed code to each elected
3 public officer and public body;

4 (10) appoint an executive director;

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

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

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

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

22 (1) sue and be sued;

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

25 (3) designate a campaign finance committee of

1 the board to resolve matters related to violations of the
2 Campaign Reporting Act; and

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

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

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

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

23 B. Except where a local accountability board or its
24 equivalent with civil enforcement jurisdiction exists, the
25 board shall also enforce the applicable civil compliance

.206074.2

1 provisions of any local ordinances that regulate the matters
2 regulated by the laws listed in Subsection A of this section.
3 As used in this subsection, "local ordinance" includes any
4 rule, ordinance, resolution or other instrument having the
5 force of law that was adopted by a political subdivision of the
6 state, including a home rule municipality and an incorporated
7 or urban county.

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

12 SECTION 7. [NEW MATERIAL] EXECUTIVE DIRECTOR--
13 APPOINTMENT--DUTIES--POWERS--LIMITATIONS.--

14 A. The executive director of the board shall be:
15 (1) knowledgeable about state laws related to
16 public accountability;
17 (2) appointed without regard to qualified
18 political party affiliation; and
19 (3) appointed, retained and reappointed solely
20 on the grounds of fitness to perform the duties of the office.

21 B. The director shall hold office for a term
22 commencing on the date of appointment through June 30 of the
23 fourth even-numbered year following the director's appointment.

24 C. Prior to the end of the director's term of
25 office, the director may only be removed by the board for cause

1 and with the concurrence of at least nine board members.

2 D. Once appointed or reappointed through an action
3 by the board, the director shall:

4 (1) take the oath of office required by
5 Article 20, Section 1 of the constitution of New Mexico and
6 file that oath of office with the secretary of state;

7 (2) devote the director's entire professional
8 time and attention to the duties of that office;

9 (3) prepare an annual budget for the board and
10 submit it to the board for approval;

11 (4) make recommendations to the board of
12 proposed rules or legislative changes needed to provide better
13 administration of the Public Accountability Act;

14 (5) operate and maintain a publicly accessible
15 website on which shall be published the board's advisory
16 opinions and annual reports and a list of persons who failed or
17 refused to file a report of expenditures and contributions or a
18 statement of no activity or to pay a penalty imposed by the
19 board shall be published; and

20 (6) at every meeting of the board, report any
21 complaints referred to the board by the complaint review
22 committee and the status of all open investigations and
23 investigations closed since the board's last meeting.

24 E. The director may:

25 (1) hire a general counsel for the board and

.206074.2

1 additional personnel necessary to enable the board to carry out
2 its duties; and

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

5 F. The director shall not:

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

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

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

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

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

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

.206074.2

1 C. The board's disqualification of a board member
2 shall serve as an automatic initiation of proceedings to remove
3 the member.

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

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

19 **SECTION 9. [NEW MATERIAL] ADVISORY OPINIONS.--**

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

23 (1) be requested in writing;

24 (2) present a question regarding whether the
25 requester's contemplated future conduct would violate any of

.206074.2

1 the laws listed in Section 6 of the Public Accountability Act;

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

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

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

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

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

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

.206074.2

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

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

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

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

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

24 G. If a complaint is dismissed as frivolous,
25 unfounded or outside the board's jurisdiction, the complaint

.206074.2

1 review committee shall notify the complainant of the
2 complaint's dismissal and notify the respondent of the specific
3 allegations in and the dismissal of the complaint. A
4 complainant shall be notified of the complainant's ability to
5 appeal a dismissal to the board.

6 H. If the complaint review committee determines
7 that there is sufficient cause to proceed with an
8 investigation, it shall investigate the complaint. As part of
9 an investigation, the complaint review committee may request
10 that the district court issue subpoenas requiring the
11 attendance of witnesses or the production of books, records,
12 documents or other evidence reasonably related to the
13 investigation. After the service of a subpoena, if a person
14 neglects or refuses to comply with the subpoena, the board may
15 apply to a district court for an order enforcing the subpoena
16 and compelling compliance. The complaint review committee may
17 administer oaths, interview witnesses and examine books,
18 records, documents and other evidence reasonably related to the
19 complaint. All testimony in an investigation shall be under
20 oath, and the respondent shall have the right to be represented
21 by legal counsel and to request that the district court issue
22 subpoenas requiring the attendance of witnesses or the
23 production of books, records, documents or other evidence
24 reasonably related to the complaint. A public employee or
25 public official who is a respondent shall be entitled to

.206074.2

1 representation by the risk management division of the general
2 services department, a local risk management entity or other
3 appropriate insurance carrier.

4 I. Within sixty days of the receipt of a complaint
5 under investigation, the complaint review committee shall
6 either:

7 (1) provide a copy of the complaint to the
8 respondent and notify the respondent that the respondent shall
9 file with the board a response to the complaint within thirty
10 days of the respondent's receipt of the notice, unless the
11 director approves an extension of time for filing the response;
12 or

13 (2) dismiss the complaint and notify the
14 complainant of the dismissal and notify the respondent of the
15 specific allegations in and the dismissal of the complaint.

16 J. If a respondent fails to file a response to a
17 complaint within thirty days or the extended time period
18 approved by the director, the complaint review committee shall
19 refer the complaint along with the complaint review committee's
20 investigation and recommendation to the board for its
21 consideration and decision.

22 K. Within thirty days of the filing of a
23 respondent's response, the complaint review committee shall,
24 having considered the response, either:

25 (1) dismiss the complaint and notify the

.206074.2

1 complainant and the respondent of the dismissal; or

2 (2) refer the complaint, response,
3 investigation and recommendation to the board for its
4 consideration and decision and notify the complainant and the
5 respondent that the complaint was referred to the board.

6 L. No later than July 1 of each even-numbered year,
7 the chief justice of the supreme court shall appoint an active
8 or pro tempore district judge to consider the issuance and
9 enforcement of subpoenas provided for in this section. The
10 appointment shall end on June 30 of the next even-numbered year
11 after appointment.

12 M. The procedures provided in Sections 10 and 11 of
13 the Public Accountability Act shall be used if those procedures
14 conflict with the procedures provided by any of the laws listed
15 in Section 6 of that act.

16 SECTION 11. [NEW MATERIAL] PRE-HEARING DISPOSITION--BOARD
17 HEARINGS--FINDINGS AND CONCLUSIONS--DISCLOSURE--APPEAL OF
18 DISMISSAL.--

19 A. If a complaint is referred to the board by the
20 complaint review committee, the director shall provide the
21 board at its next meeting a report of the committee's
22 investigation of any complaints referred to the board. Based
23 on the director's report, the board shall:

24 (1) dismiss the complaint and notify the
25 complainant and the respondent of the dismissal; or

1 (2) set a public hearing, as soon as
2 practicable, and notify the complainant of the date, time and
3 place of the hearing at which the board will consider and
4 adjudicate the matter.

5 B. At any time before a hearing provided for in
6 Subsection A of this section, the board may approve a pre-
7 hearing disposition of a complaint agreed to by the director
8 and the respondent.

9 C. The hearing provided for in Subsection A of this
10 section shall be pursuant to the rules of evidence that govern
11 proceedings in the state's courts. One of the board members
12 appointed by the chief justice of the supreme court shall
13 preside over the hearing and is authorized to administer oaths.
14 The respondent has the right to be represented by counsel. The
15 parties may present evidence and testimony, compel the presence
16 of witnesses and examine and cross-examine witnesses.

17 D. After the hearing, if the board finds by clear
18 and convincing evidence that the respondent's conduct
19 constituted a breach, the board shall, within thirty days of
20 the hearing, issue a written report that shall include findings
21 of fact and conclusions of law. The written report may include
22 a public reprimand or censure regarding the respondent's breach
23 or recommendations for disciplinary action against the
24 respondent, and if the respondent's conduct constituted a
25 willful breach, the board shall impose any fines provided for

.206074.2

1 by law.

2 E. The board shall publicly disclose a report
3 issued pursuant to Subsection D of this section. If the report
4 concerns a willful breach, the board shall provide the report,
5 along with all evidence collected during the board's
6 investigation, to the respondent and the:

7 (1) chief clerk of the house of
8 representatives if the respondent is a public official who is
9 subject to impeachment;

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

12 (3) appropriate public body if the respondent
13 is a public employee;

14 (4) public body with which the respondent has
15 a government contract if the respondent is a government
16 contractor; or

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

19 F. After the hearing, if the board does not find by
20 clear and convincing evidence that the respondent's conduct
21 constituted a breach, the board shall dismiss the complaint and
22 provide notice of the dismissal to the complainant and the
23 respondent within thirty days after the hearing.

24 G. The board shall promulgate rules establishing
25 procedures for hearings.

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

2 A. A finding that a respondent's conduct
3 constituted a breach shall be a public record. A dismissal of
4 a complaint shall be a public record only upon the request of
5 the respondent.

6 B. Except as otherwise provided in the laws listed
7 in Section 6 of the Public Accountability Act, all complaints,
8 reports, files, records and communications collected or
9 generated by the board, complaint review committee or director
10 that pertain to alleged breaches shall not be disclosed by the
11 board or any board member, agent or employee of the board and
12 are not subject to inspection pursuant to the Inspection of
13 Public Records Act, unless:

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

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

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

21 C. Information and reports containing information
22 made confidential by law or exempt from inspection pursuant to
23 the Inspection of Public Records Act shall not be disclosed by
24 the board or its director, staff or contractors.

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

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

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

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

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

11 B. No later than July 15, 2018, the New Mexico
12 association of counties, New Mexico municipal league and New
13 Mexico school boards association shall meet to determine,
14 either by agreement or by lot, which organization shall
15 recommend a person for appointment to class A, class B and
16 class C positions of the board. The secretary of state shall
17 appoint board members to class A, class B and class C positions
18 of the board in accordance with the determination and
19 recommendations provided for in this subsection. Appointments
20 by the secretary of state shall be without regard to residency
21 within a particular area of the state and without regard to
22 political affiliation. No later than September 1, 2018, the
23 secretary of state shall file with the office of the secretary
24 of state a designation of appointment to the board, along with
25 a designation as to which appointees shall serve in class A,

.206074.2

1 class B and class C.

2 C. No later than September 1, 2018, the board of
3 commissioners of the state bar of New Mexico shall file with
4 the secretary of state a designation of appointment of three
5 attorneys licensed to practice law in this state to serve as
6 members of the board, of which at least one member shall be
7 appointed from each congressional district. The board of
8 commissioners shall make appointments such that no qualified
9 political party is represented by more than five members on the
10 board. In making the appointments, the board of commissioners
11 shall designate which board members shall serve in class A,
12 class B and class C positions.

13 D. No later than October 1, 2018, the governor
14 shall file with the secretary of state a designation of
15 appointment of three persons to serve as members of the board,
16 of which at least one member shall be appointed from each
17 congressional district. The governor shall not appoint more
18 than one board member from a qualified political party in the
19 state. In making the appointments, the governor shall
20 designate which board members shall serve in class A, class B
21 and class C positions.

22 E. No later than November 1, 2018, the chief
23 justice of the supreme court shall file with the secretary of
24 state a designation of appointment of three retired judges to
25 serve as members of the board, of which at least one member

.206074.2

1 shall be appointed from each congressional district. The chief
2 justice shall make appointments such that no qualified
3 political party is represented by more than five members on the
4 board. In making the appointments, the chief justice shall
5 designate which board members shall serve in class A, class B
6 and class C positions.

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

9 (1) shall:

10 (a) be a resident of New Mexico for at
11 least four years;

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

15 (c) if appointed by the board of
16 commissioners of the state bar of New Mexico, be an attorney
17 licensed to practice law in this state; and

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

20 (2) shall not:

21 (a) seek or hold an office in a
22 qualified political party;

23 (b) seek or hold an elective public
24 office or an appointed public position; or

25 (c) be a state employee, government

1 contractor or lobbyist.

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

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

10 I. The board shall:

11 (1) convene its first meeting no sooner than
12 December 1, 2018;

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

14 (3) appoint an executive director of the
15 board.

16 J. Until the board establishes a website, and no
17 later than October 1, 2019, the secretary of state shall
18 provide information regarding appointments to the board,
19 notices of board meetings and such other information as
20 requested by the board.

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

23 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

24 A. Each of the following documents is a public
25 record open to public inspection during regular office hours in

.206074.2

1 the office in which the document was filed or from which the
2 document was issued:

- 3 (1) a statement of [~~exception~~] no activity;
- 4 (2) a report of expenditures and
5 contributions;
- 6 (3) an advisory opinion issued by the
7 [~~secretary of state~~] public accountability board;
- 8 (4) a document specified as a public record in
9 the Campaign Reporting Act; and
- 10 (5) [~~an arbitration decision issued by an~~
11 ~~arbitration panel and filed with the secretary of state~~] a
12 decision issued by a hearing officer and filed with the public
13 accountability board.

14 B. Each public record described in Subsection A of
15 this section shall be retained by the state for five years and
16 may be destroyed five years after the date of filing unless a
17 legal action or prosecution is pending that requires the
18 preservation of the public record.

19 C. The secretary of state shall provide for
20 electronic access to reports of expenditures and contributions
21 and statements of [~~exception~~] no activity submitted
22 electronically by reporting individuals. Electronic access
23 shall include access via the internet and shall be in an easily
24 searchable format."

25 SECTION 15. Section 1-19-32.1 NMSA 1978 (being Laws 1981,

.206074.2

1 Chapter 331, Section 9, as amended) is amended to read:

2 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF
3 REPORTS.--

4 A. The [~~secretary of state~~] public accountability
5 board shall conduct a thorough examination of at least ten
6 percent of all reports filed during a year by reporting
7 individuals, selected at random at least forty days after the
8 general election and ten days after the April reports are filed
9 in a non-election year, to determine compliance with the
10 provisions of the Campaign Reporting Act. The examination may
11 include an investigation of any discrepancies, including a
12 cross-reference to reports filed by any other reporting
13 individual. A reporting individual shall be notified in
14 writing if a discrepancy is found in the report filed and shall
15 be permitted to file a written explanation for the discrepancy
16 within ten [~~working~~] days of the date of the notice. The
17 notice, penalty and [~~arbitration~~] independent hearing officer
18 provisions set forth in Section 1-19-34.4 NMSA 1978 shall apply
19 to examinations conducted under this section.

20 B. After the date stated in the notice of final
21 action for submission of a written explanation, the [~~secretary~~
22 ~~of state~~] public accountability board shall prepare an annual
23 report of any unresolved discrepancies found after examination
24 of the random sample provided for in Subsection A of this
25 section. [~~A copy of this report shall be transmitted to the~~

.206074.2

1 ~~attorney general for enforcement pursuant to the provisions of~~
2 ~~Section 1-19-36 NMSA 1978.]~~ This report is a public record open
3 to public inspection and subject to the retention and
4 destruction provisions set forth in Section 1-19-32 NMSA 1978."

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

7 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--
8 INVESTIGATIONS--~~[BINDING ARBITRATION]~~ HEARINGS--REFERRALS FOR
9 ENFORCEMENT.--

10 A. The secretary of state shall advise and seek to
11 educate all persons required to perform duties under the
12 Campaign Reporting Act of those duties. This includes advising
13 all known reporting individuals at least annually of that act's
14 deadlines for submitting required reports and statements of
15 ~~[exception]~~ no activity. The ~~[secretary of state in~~
16 ~~consultation with the attorney general]~~ public accountability
17 board shall issue advisory opinions, when requested in writing
18 to do so, on matters concerning that act. All prescribed forms
19 prepared shall be clear and easy to complete.

20 B. ~~[The secretary of state may initiate~~
21 ~~investigations to determine whether any provision of the~~
22 ~~Campaign Reporting Act has been violated. Additionally]~~ Any
23 person who believes that a provision of ~~[that]~~ the Campaign
24 Reporting Act has been violated may file a written complaint
25 with the ~~[secretary of state]~~ public accountability board any

.206074.2

1 time prior to ninety days after an election, except that no
2 complaints from the public may be filed within eight days prior
3 to an election. The [~~secretary of state~~] board shall adopt
4 procedures for issuing advisory opinions and processing
5 complaints and notifications of violations.

6 C. The [~~secretary of state~~] public accountability
7 board shall at all times seek to ensure voluntary compliance
8 with the provisions of the Campaign Reporting Act. If the
9 [~~secretary of state~~] board determines that a provision of that
10 act for which a penalty may be imposed has been violated, the
11 [~~secretary of state~~] board shall by written notice set forth
12 the violation and the fine imposed and inform the reporting
13 individual that [~~he~~] the individual has ten [~~working~~] days from
14 the date of the letter to correct the matter and to provide a
15 written explanation, under penalty of perjury, stating any
16 reason why the violation occurred. If a timely explanation is
17 filed and the [~~secretary of state~~] board determines that good
18 cause exists to waive the fine imposed, the [~~secretary of~~
19 ~~state~~] board may by a written notice of final action partially
20 or fully waive any fine imposed for any late, incomplete or
21 false report or statement of [~~exception~~] no activity. A
22 written notice of final action shall be sent by certified mail.

23 D. Upon receipt of the notice of final action, the
24 person against whom the penalty has been imposed may protest
25 the [~~secretary of state's~~] public accountability board's

.206074.2

1 determination, including an advisory opinion, by submitting on
2 a prescribed form a written request for ~~[binding arbitration to~~
3 ~~the secretary of state]~~ a hearing within ten ~~[working]~~ days of
4 the date of the notice of final action. The hearing shall be
5 conducted by an independent hearing officer appointed pursuant
6 to the Administrative Hearings Office Act. Any fine imposed
7 shall be due and payable within ten ~~[working]~~ days of the date
8 of notice of final action. ~~[No additional fine shall accrue~~
9 ~~pending the issuance of the arbitration decision. Fines paid~~
10 ~~pursuant to a notice of final action that are subsequently~~
11 ~~reduced or dismissed shall be reimbursed with interest within~~
12 ~~ten working days after the filing of the arbitration decision~~
13 ~~with the secretary of state. Interest on the reduced or~~
14 ~~dismissed portion of the fine shall be the same as the rate of~~
15 ~~interest earned by the secretary of state's escrow account to~~
16 ~~be established by the department of finance and administration.~~

17 E. ~~An arbitration hearing shall be conducted by a~~
18 ~~single arbitrator selected within ten days by the person~~
19 ~~against whom the penalty has been imposed from a list of five~~
20 ~~arbitrators provided by the secretary of state. Neither the~~
21 ~~secretary of state nor a person subject to the Campaign~~
22 ~~Reporting Act, Lobbyist Regulation Act or Financial Disclosure~~
23 ~~Act may serve as an arbitrator. Arbitrators shall be~~
24 ~~considered to be independent contractors, not public officers~~
25 ~~or employees, and shall not be paid per diem and mileage.~~

1 F.] E. The [~~arbitrator~~] hearing officer shall
 2 conduct the hearing within thirty days of the request [~~for~~
 3 ~~arbitration. The arbitrator~~] and may impose any penalty [~~the~~
 4 ~~secretary of state is authorized to impose~~] provided for in the
 5 Campaign Reporting Act. The [~~arbitrator~~] hearing officer shall
 6 state the reasons for [~~his~~] the decision in a written document
 7 that shall be a public record. [~~The decision shall be final~~
 8 ~~and binding.~~] The decision shall be issued and filed with the
 9 [~~secretary of state~~] public accountability board within thirty
 10 days of the conclusion of the hearing. [~~Unless otherwise~~
 11 ~~provided for in this section or by rule or regulation adopted~~
 12 ~~by the secretary of state, the procedures for the arbitration~~
 13 ~~shall be governed by the Uniform Arbitration Act. No~~
 14 ~~arbitrator shall be subject to liability for actions taken~~
 15 ~~pursuant to this section.~~

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

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

21 "1-19-34.6. CIVIL PENALTIES.--

22 [~~A. If the secretary of state reasonably believes~~
 23 ~~that a person committed, or is about to commit, a violation of~~
 24 ~~the Campaign Reporting Act, the secretary of state shall refer~~
 25 ~~the matter to the attorney general or a district attorney for~~

.206074.2

1 ~~enforcement.~~

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

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

16 ~~[C. The attorney general or district attorney]~~

17 B. The public accountability board may institute a
18 civil action in district court if a violation has occurred or
19 to prevent a violation of any provision of the Campaign
20 Reporting Act other than that specified in Subsection [B] A of
21 this section. Relief may include a permanent or temporary
22 injunction, a restraining order or any other appropriate order,
23 including an order for a civil penalty of fifty dollars
24 (\$50.00) for each violation not to exceed five thousand dollars
25 (\$5,000)."

.206074.2

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

3 "1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES--
4 POLITICAL COMMITTEES.--

5 A. The following contributions by the following
6 persons are prohibited:

7 (1) from a person, not including a political
8 committee, to a:

9 (a) candidate for nonstatewide office,
10 including the candidate's campaign committee, in an amount that
11 will cause that person's total contributions to the candidate
12 to exceed two thousand three hundred dollars (\$2,300) during
13 the primary election or two thousand three hundred dollars
14 (\$2,300) during the general election;

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

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

.206074.2

1 (2) from a political committee to:

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

8 (b) another political committee in an
9 amount that will cause that political committee's total
10 contributions to the political committee to exceed five
11 thousand dollars (\$5,000) during a primary election or five
12 thousand dollars (\$5,000) during a general election.

13 B. All contributions made by a person to a
14 candidate, either directly or indirectly, including
15 contributions that are in any way earmarked or otherwise
16 directed through another person to a candidate, shall be
17 treated as contributions from the person to that candidate.

18 C. A person, including a political committee, shall
19 not knowingly accept or solicit a contribution, directly or
20 indirectly, including a contribution earmarked or otherwise
21 directed or coordinated through another person, including a
22 political committee, that violates the contribution limits
23 provided for in this section.

24 D. On the day after each general election, the
25 contribution amounts provided in Subsection A of this section

.206074.2

1 shall be increased by the percentage of the preceding two
 2 calendar [~~year's~~] years' increase of the consumer price index
 3 for all urban consumers, United States city average for all
 4 items, published by the United States department of labor. The
 5 amount of the increase shall be rounded to the nearest multiple
 6 of one hundred dollars (\$100). The secretary of state shall
 7 publish by October 1 before each general election the adjusted
 8 contribution limits that shall take effect the day after the
 9 following general election.

10 E. All contributions in excess of the limits
 11 imposed by the provisions of this section shall be deposited in
 12 the public election fund upon a finding by the [~~secretary of~~
 13 ~~state~~] public accountability board that the contribution limits
 14 have been exceeded.

15 F. The limitation on contributions to a candidate
 16 provided for in Subsection A of this section shall not apply to
 17 a candidate's own contribution from the candidate's personal
 18 funds to the candidate's own campaign.

19 G. For the purposes of this section:

20 (1) "primary election" means the period
 21 beginning on the day after the general election for the
 22 applicable office and ending on the day of the primary for that
 23 office; and

24 (2) "general election" means the period
 25 beginning on the day after the primary for the applicable

.206074.2

1 office and ending on the day of the general election for that
2 office."

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

5 "1-19-35. REPORTS AND STATEMENTS--LATE FILING
6 PENALTY--FAILURE TO FILE.--

7 A. Except for the report required to be filed and
8 delivered the Thursday prior to the election and any
9 supplemental report, as required in Paragraph (5) of Subsection
10 B of Section 1-19-29 NMSA 1978, that is due prior to the
11 election, and subject to the provisions of Section 1-19-34.4
12 NMSA 1978, if a statement of no activity or a report of
13 expenditures and contributions contains false or incomplete
14 information or is filed after any deadline imposed by the
15 Campaign Reporting Act, the responsible reporting individual or
16 political committee, in addition to any other penalties or
17 remedies prescribed by the Election Code, shall be liable for
18 and shall pay to the [~~secretary of state~~] public accountability
19 board fifty dollars (\$50.00) per day for each regular working
20 day after the time required by the Campaign Reporting Act for
21 the filing of statements of no activity or reports of
22 expenditures and contributions until the complete or true
23 statement or report is filed, up to a maximum of five thousand
24 dollars (\$5,000).

25 B. If any reporting individual files a false,

1 intentionally incomplete or late report of expenditures and
2 contributions due on the Thursday prior to the election, the
3 reporting individual or political committee shall be liable for
4 and pay to the [~~secretary of state~~] public accountability board
5 five hundred dollars (\$500) for the first working day and fifty
6 dollars (\$50.00) for each subsequent working day after the time
7 required for the filing of the report until the true and
8 complete report is filed, up to a maximum of five thousand
9 dollars (\$5,000).

10 C. If a reporting individual fails to file or files
11 a late supplemental report of expenditures and contributions as
12 required in Paragraph (5) of Subsection B of Section 1-19-29
13 NMSA 1978, the reporting individual or political committee
14 shall be liable for and pay to the [~~secretary of state~~] public
15 accountability board a penalty equal to the amount of each
16 contribution received or pledged after the Tuesday before the
17 election that was not timely filed.

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

23 E. Any candidate who fails or refuses to file a
24 report of expenditures and contributions or statement of no
25 activity or to pay a penalty imposed by the [~~secretary of~~

.206074.2

1 ~~state]~~ public accountability board as required by the Campaign
2 Reporting Act shall not, in addition to any other penalties
3 provided by law:

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

7 (2) be issued a certificate of nomination or
8 election, if the violation occurs after the final date for
9 withdrawal of candidates or after the election, until the
10 candidate satisfies all reporting requirements of the Campaign
11 Reporting Act and pays all penalties owed.

12 F. The public accountability board shall maintain
13 on its website a list of persons who failed or refused to file
14 a report of expenditures and contributions or a statement of no
15 activity or to pay a penalty imposed by the board and have not
16 remedied the failure or refusal.

17 [~~F.~~] G. Any candidate who loses an election and who
18 failed or refused to file a report of expenditures and
19 contributions or a statement of no activity or to pay a penalty
20 imposed by the [~~secretary of state]~~ public accountability board
21 as required by the Campaign Reporting Act shall not be, in
22 addition to any other penalties provided by law, permitted to
23 file a declaration of candidacy or nominating petition for any
24 future election until the candidate satisfies all reporting
25 requirements of that act and pays all penalties owed."

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

3 "1-19A-16. APPEALS.--The procedure for challenging a
4 certification decision by the secretary is as follows:

5 A. a person aggrieved by a certification decision
6 or a decision regarding the distribution of matching funds may
7 appeal to the ~~[secretary]~~ public accountability board within
8 three days of the decision. The appeal shall be in writing and
9 shall set forth the reasons for appeal;

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

14 (1) the appellant has the burden of providing
15 evidence to demonstrate that the secretary's decision was
16 improper; and

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

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

23 D. certified candidates whose certification is
24 revoked on appeal shall return to the secretary any unspent
25 money distributed from the fund. If the secretary or court

.206074.2

1 finds that an appeal was made frivolously or to result in delay
2 or hardship, the secretary or court may sanction the moving
3 party by requiring the party to pay costs of the administrative
4 hearing, the court hearing and the opposing parties."

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

7 "1-19A-17. PENALTIES.--

8 A. In addition to other penalties that may be
9 applicable, a person who violates a provision of the Voter
10 Action Act is subject to a civil penalty of up to ten thousand
11 dollars (\$10,000) per violation. In addition to a fine, a
12 certified candidate found in violation of that act may be
13 required to return to the fund all amounts distributed to the
14 candidate from the fund. If the [~~secretary~~] public
15 accountability board makes a determination that a violation of
16 that act has occurred, the [~~secretary~~] public accountability
17 board shall impose a fine or transmit the finding to the
18 attorney general for prosecution. In determining whether a
19 certified candidate is in violation of the expenditure limits
20 of that act, the [~~secretary~~] public accountability board may
21 consider as a mitigating factor any circumstances out of the
22 candidate's control.

23 B. A person who willfully or knowingly violates the
24 provisions of the Voter Action Act or rules of the secretary or
25 knowingly makes a false statement in a report required by that

.206074.2

1 act is guilty of a fourth degree felony and, if ~~[he]~~ the person
 2 is a certified candidate, shall return to the fund all money
 3 distributed to that candidate."

4 SECTION 22. Section 1-22A-6 NMSA 1978 (being Laws 2013,
 5 Chapter 180, Section 6) is amended to read:

6 "1-22A-6. VOLUNTARY COMPLIANCE--COMPLAINTS AND
 7 INVESTIGATIONS--ARBITRATION--REFERRALS FOR ENFORCEMENT.--

8 A. ~~[The secretary of state may initiate~~
 9 ~~investigations to determine whether any provision of the School~~
 10 ~~District Campaign Reporting Act has been violated.~~

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

20 B. The ~~[secretary of state]~~ public accountability
 21 board shall at all times seek to ensure voluntary compliance
 22 with the provisions of the School District Campaign Reporting
 23 Act. If the ~~[secretary of state]~~ board determines that a
 24 provision of that act for which a penalty may be imposed has
 25 been violated, the ~~[secretary of state]~~ board shall by written

.206074.2

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

13 C. Upon receipt of the notice of final action, the
14 person against whom the penalty has been imposed may protest
15 the ~~[secretary of state's]~~ public accountability board's
16 determination by submitting on a prescribed form a written
17 request for ~~[binding arbitration]~~ a hearing to the ~~[secretary~~
18 ~~of state]~~ board within ten ~~[working]~~ days of the date of the
19 notice of final action. The hearing shall be conducted by an
20 independent hearing officer appointed pursuant to the
21 Administrative Hearings Office Act. Any fine imposed shall be
22 due and payable within ten ~~[working]~~ days of the date of notice
23 of final action. ~~[No additional fine shall accrue pending the~~
24 ~~issuance of the arbitration decision. Fines paid pursuant to a~~
25 ~~notice of final action that are subsequently reduced or~~

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

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

17 ~~E.]~~ D. The ~~[arbitrator]~~ hearing officer shall
 18 conduct the hearing within thirty days of the request ~~[for~~
 19 ~~arbitration. The arbitrator]~~ and may impose any penalty ~~[the~~
 20 ~~secretary of state is authorized to impose]~~ provided for in the
 21 School District Campaign Reporting Act. The ~~[arbitrator]~~
 22 hearing officer shall state the reasons for the ~~[arbitrator's]~~
 23 decision in a written document that shall be a public record.
 24 ~~[The decision shall be final and binding.]~~ The decision shall
 25 be issued and filed with the ~~[secretary of state]~~ public

.206074.2

1 accountability board within thirty days of the conclusion of
2 the hearing. [~~Unless otherwise provided for in this section or~~
3 ~~by rule or regulation adopted by the secretary of state, the~~
4 ~~procedures for the arbitration shall be governed by the Uniform~~
5 ~~Arbitration Act. No arbitrator shall be subject to liability~~
6 ~~for actions taken pursuant to this section.~~

7 F. ~~The secretary of state may refer a matter to the~~
8 ~~attorney general or a district attorney for a civil injunction~~
9 ~~or other appropriate order or for criminal enforcement.]"~~

10 SECTION 23. Section 1-22A-8 NMSA 1978 (being Laws 2013,
11 Chapter 180, Section 8) is amended to read:

12 "1-22A-8. CIVIL PENALTIES.--

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

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

19 A. The public accountability board may institute a
20 civil action in district court for any violation of the School
21 District Campaign Reporting Act or to prevent a violation of
22 that act that involves an unlawful solicitation or the making
23 or acceptance of an unlawful contribution. An action for
24 relief may include a permanent or temporary injunction, a
25 restraining order or any other appropriate order, including a

1 civil penalty of two hundred fifty dollars (\$250) for each
 2 violation not to exceed five thousand dollars (\$5,000), and
 3 forfeiture of any contribution received as a result of an
 4 unlawful solicitation or unlawful contribution. Each unlawful
 5 solicitation and each unlawful contribution made or accepted
 6 shall be deemed a separate violation of the Campaign Reporting
 7 Act.

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

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

18 **SECTION 24.** Section 2-6-1 NMSA 1978 (being Laws 1961,
 19 Chapter 2, Section 1, as amended) is amended to read:

20 "2-6-1. LIMIT ON THE TIME WITHIN WHICH BILLS MAY BE
 21 INTRODUCED.--

22 A. A bill shall not be accepted for filing until
 23 after the beginning of the prohibited period for soliciting
 24 campaign contributions provided for in Section 1-19-34.1 NMSA
 25 1978.

.206074.2

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

12 SECTION 25. Section 2-11-2 NMSA 1978 (being Laws 1977,
13 Chapter 261, Section 2, as amended) is amended to read:

14 "2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation
15 Act:

16 A. "compensation" means any money, per diem,
17 salary, fee or portion thereof or the equivalent in services
18 rendered or in-kind contributions received or to be received in
19 return for lobbying services performed or to be performed;

20 B. "expenditure" means a payment, transfer or
21 distribution or obligation or promise to pay, transfer or
22 distribute any money or other thing of value but does not
23 include a lobbyist's own personal living expenses and the
24 expenses incidental to establishing and maintaining an office
25 in connection with lobbying activities or compensation paid to

.206074.2

1 a lobbyist by a lobbyist's employer;

2 C. "legislative committee" means a committee
3 created by the legislature, including interim and standing
4 committees of the legislature;

5 D. "lobbying" means attempting to influence:

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

11 (2) an official action;

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

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

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

25 (3) an employee of the state or its political

.206074.2

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

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

15 (5) a member of the legislature, the staff of
16 ~~[any]~~ a member of the legislature or the staff of ~~[any]~~ a
17 legislative committee when addressing legislation;

18 (6) ~~[any]~~ a witness called by a legislative
19 committee or administrative agency to appear before that
20 legislative committee or agency in connection with legislation
21 or an official action;

22 (7) an individual who provides only oral or
23 written public testimony in connection with a legislative
24 committee or in a rulemaking proceeding and whose name and the
25 interest on behalf of which ~~[he]~~ the individual testifies have

1 been clearly and publicly identified; [~~or~~]

2 (8) the executive director of a nonprofit or
 3 an intergovernmental or trade association organized under the
 4 provisions of Section 501(c) of the Internal Revenue Code of
 5 1986 who provides oral or written public testimony in
 6 connection with a legislative committee or in a rulemaking
 7 proceeding and whose name and organization have been clearly
 8 and publicly identified; or

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

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

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

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

24 I. "political contribution" means a gift,
 25 subscription, loan, advance or deposit of [~~any~~] money or other

.206074.2

1 thing of value, including the estimated value of an in-kind
2 contribution, that is made or received for the purpose of
3 influencing a primary, general or statewide election, including
4 a constitutional or other question submitted to the voters, or
5 for the purpose of paying a debt incurred in any such election;

6 J. "prescribed form" means a form prepared and
7 prescribed by the secretary of state;

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

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

16 SECTION 26. Section 2-11-8.2 NMSA 1978 (being Laws 1977,
17 Chapter 261, Section 4, as amended) is amended to read:

18 "2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--
19 BINDING ARBITRATION--CIVIL PENALTIES.--

20 A. The secretary of state shall advise and seek to
21 educate all persons required to perform duties pursuant to the
22 Lobbyist Regulation Act of those duties. This includes
23 advising all registered lobbyists at least annually of the
24 Lobbyist Regulation Act's deadlines for submitting required
25 reports. The ~~[secretary of state, in consultation with the~~

.206074.2

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

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

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

.206074.2

1 action partially or fully waive any fine imposed. A written
2 notice of final action shall be sent by certified mail.

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

20 E. ~~An arbitration hearing shall be conducted by a~~
21 ~~single arbitrator selected within ten days by the person~~
22 ~~against whom the penalty has been imposed from a list of five~~
23 ~~arbitrators provided by the secretary of state. Neither the~~
24 ~~secretary of state nor a person subject to the Lobbyist~~
25 ~~Regulation Act, Campaign Reporting Act or Financial Disclosure~~

1 ~~Act may serve as an arbitrator. Arbitrators shall be~~
 2 ~~considered to be independent contractors, not public officers~~
 3 ~~or employees, and shall not be paid per diem and mileage.~~

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

18 ~~G. Any]~~ F. A person who files a report after the
 19 deadline imposed by the Lobbyist Regulation Act, or ~~[any]~~ a
 20 person who files a false or incomplete report, shall be liable
 21 for and shall pay to the ~~[secretary of state]~~ public election
 22 fund fifty dollars (\$50.00) per day for each regular working
 23 day after the time required for the filing of the report until
 24 the complete report is filed, up to a maximum of five thousand
 25 dollars (\$5,000).

.206074.2

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

4 SECTION 27. Section 2-15-7 NMSA 1978 (being Laws 1993,
5 Chapter 46, Section 52) is amended to read:

6 "2-15-7. ~~[INTERIM] LEGISLATIVE ETHICS COMMITTEE--~~
7 ~~CREATION--APPOINTMENT.--~~

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

14 B. All matters ~~[arising in the interim]~~ pertaining
15 to legislative ethics shall be referred to ~~[this special~~
16 ~~interim]~~ the legislative ethics committee.

17 C. The committee shall be appointed by the
18 New Mexico legislative council so as to give the two major
19 political parties in each house equal representation on the
20 committee. In appointing the members to the committee, the New
21 Mexico legislative council shall adopt the recommendations of
22 the respective floor leaders of each house.

23 D. The legislative ethics committee shall include
24 two nonvoting public members, one appointed by the speaker of
25 the house of representatives with the agreement of the majority

1 and minority floor leaders of the house of representatives and
 2 one appointed by the president pro tempore of the senate with
 3 the agreement of the majority and minority leaders of the
 4 senate.

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

10 SECTION 28. Section 2-15-8 NMSA 1978 (being Laws 1993,
 11 Chapter 46, Section 53) is amended to read:

12 "2-15-8. ~~[INTERIM]~~ LEGISLATIVE ETHICS COMMITTEE--
 13 DUTIES.--

14 A. The ~~[interim]~~ legislative ethics committee is
 15 authorized to:

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

20 ~~[B.]~~ (2) investigate complaints from another
 21 member of the legislature or a member of the public alleging
 22 misconduct of a legislator;

23 ~~[C.]~~ (3) investigate referrals made to the
 24 ~~[co-chairmen]~~ co-chairs of the New Mexico legislative council
 25 from the public accountability board, the attorney general, the

.206074.2

1 secretary of state or a district attorney;

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

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

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

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

16 SECTION 29. Section 2-15-9 NMSA 1978 (being Laws 1993,
17 Chapter 46, Section 54) is amended to read:

18 "2-15-9. ~~[INTERIM]~~ LEGISLATIVE ETHICS COMMITTEE--
19 PROCEDURES--CONFIDENTIALITY.--

20 A. ~~[Except as provided in this section]~~ The
21 New Mexico legislative council shall develop procedures to
22 carry out the provisions of this section ~~[in accordance with~~
23 ~~the existing procedures in the house and senate rules]~~. The
24 procedures used by the legislative ethics committee when it
25 conducts an investigation of a complaint shall be substantially

1 similar to the procedures used by the public accountability
2 board.

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

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

.206074.2

1 committee. The public members of the committee shall be
2 allowed to participate in committee meetings related to
3 advisory opinions.

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

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

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

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

1 a member of the senate. The public members shall be allowed to
 2 participate in committee meetings that relate to all other
 3 matters.

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

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

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

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

20 G. Any hearing of the legislative ethics committee
 21 in which the committee recommends sanctions against a
 22 legislator shall be open to the public, and any documents
 23 introduced as evidence in the hearing shall be public records."

24 SECTION 30. Section 2-15-11 NMSA 1978 (being Laws 1993,
 25 Chapter 46, Section 56) is amended to read:

.206074.2

1 "2-15-11. LEGISLATIVE ETHICS COMMITTEE--STAFF.--The staff
2 for the [~~interim~~] legislative ethics committee shall be
3 provided by the legislative council service, but the committee
4 is authorized to hire such special counsel, arbitrators or
5 independent hearing officers, or to request the appointment of
6 an independent hearing officer, as provided for in the
7 Administrative Hearings Office Act, as necessary to assist the
8 [~~legislative ethics~~] committee when it is convened."

9 **SECTION 31.** Section 2-15-12 NMSA 1978 (being Laws 1993,
10 Chapter 46, Section 57) is amended to read:

11 "2-15-12. [~~NEW MEXICO~~] LEGISLATIVE [COUNCIL] ETHICS
12 COMMITTEE--BUDGET.--The New Mexico legislative council shall
13 annually provide an amount sufficient to carry out the duties
14 and mandate of the [~~interim~~] legislative ethics committee."

15 **SECTION 32.** Section 7-1B-6 NMSA 1978 (being Laws 2015,
16 Chapter 73, Section 6) is amended to read:

17 "7-1B-6. HEARING OFFICER CODE OF CONDUCT--INDEPENDENCE.--

18 A. The chief hearing officer shall:

19 (1) adopt and promulgate a hearing officer
20 code of conduct; and

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

25 B. The chief hearing officer shall ensure that each

1 hearing officer has decisional independence; however, the chief
2 hearing officer may:

3 (1) consult with a hearing officer about a
4 genuine question of law; and

5 (2) review with a hearing officer any issue on
6 appeal addressed by a court of this state.

7 C. The administrative hearings office shall:

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

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

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

14 (4) conduct all adjudicatory hearings pursuant
15 to the Motor Vehicle Code;

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

18 (6) conduct hearings related to decisions of
19 the public accountability board;

20 [~~6~~] (7) make and preserve a complete record
21 of all proceedings; and

22 [~~7~~] (8) maintain confidentiality regarding
23 taxpayer information as required by the provisions of Section
24 7-1-8 NMSA 1978.

25 D. In hearings conducted pursuant to the Tax

.206074.2

1 Administration Act, Section 13-1-22 NMSA 1978 and the Motor
2 Vehicle Code:

3 (1) the rules of evidence that govern
4 proceedings in the state's courts do not apply. The hearing
5 officer may require reasonable substantiation of statements or
6 records tendered, the accuracy or truth of which is in
7 reasonable doubt, to rule on the admissibility of evidence. A
8 taxpayer or the taxation and revenue department may request a
9 written ruling on a contested question of evidence in a matter
10 in which the taxpayer has filed a written protest and for which
11 that protest is pending. The administrative hearings office
12 shall issue a copy of its written ruling to the taxation and
13 revenue department at the time the ruling is issued to the
14 taxpayer;

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

.206074.2

1 is pending. The administrative hearings office shall issue a
2 copy of its written ruling to the taxation and revenue
3 department at the time the ruling is issued to the taxpayer;
4 and

5 (3) the hearing officer may administer oaths
6 and issue subpoenas for the attendance of witnesses and the
7 production of relevant books and papers, and for hearings
8 conducted for a license suspension pursuant to Section 66-5-30
9 NMSA 1978, the hearing officer may require a reexamination of
10 the licensee."

11 **SECTION 33.** Section 10-15-1 NMSA 1978 (being Laws 1974,
12 Chapter 91, Section 1, as amended) is amended to read:

13 "10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN
14 MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS.--

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

.206074.2

1 efforts shall be made to accommodate the use of audio and video
2 recording devices.

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

19 C. If otherwise allowed by law or rule of the
20 public body, a member of a public body may participate in a
21 meeting of the public body by means of a conference telephone
22 or other similar communications equipment when it is otherwise
23 difficult or impossible for the member to attend the meeting in
24 person; provided that each member participating by conference
25 telephone can be identified when speaking, all participants are

.206074.2

1 able to hear each other at the same time and members of the
2 public attending the meeting are able to hear any member of the
3 public body who speaks during the meeting.

4 D. Any meetings at which the discussion or adoption
5 of any proposed resolution, rule, regulation or formal action
6 occurs and at which a majority or quorum of the body is in
7 attendance, and any closed meetings, shall be held only after
8 reasonable notice to the public. The affected body shall
9 determine at least annually in a public meeting what notice for
10 a public meeting is reasonable when applied to that body. That
11 notice shall include broadcast stations licensed by the federal
12 communications commission and newspapers of general circulation
13 that have provided a written request for such notice.

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

25 F. Meeting notices shall include an agenda

.206074.2

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

24 G. The board, commission or other policymaking body
25 shall keep written minutes of all its meetings. The minutes

1 shall include at a minimum the date, time and place of the
2 meeting, the names of members in attendance and those absent,
3 the substance of the proposals considered and a record of any
4 decisions and votes taken that show how each member voted. All
5 minutes are open to public inspection. Draft minutes shall be
6 prepared within ten working days after the meeting and shall be
7 approved, amended or disapproved at the next meeting where a
8 quorum is present. Minutes shall not become official until
9 approved by the policymaking body.

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

12 (1) meetings pertaining to issuance,
13 suspension, renewal or revocation of a license, except that a
14 hearing at which evidence is offered or rebutted shall be open.
15 All final actions on the issuance, suspension, renewal or
16 revocation of a license shall be taken at an open meeting;

17 (2) limited personnel matters; provided that
18 for purposes of the Open Meetings Act, "limited personnel
19 matters" means the discussion of hiring, promotion, demotion,
20 dismissal, assignment or resignation of or the investigation or
21 consideration of complaints or charges against any individual
22 public employee; provided further that this paragraph is not to
23 be construed as to exempt final actions on personnel from being
24 taken at open public meetings, nor does it preclude an
25 aggrieved public employee from demanding a public hearing.

.206074.2

1 Judicial candidates interviewed by any commission shall have
2 the right to demand an open interview;

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

14 (4) the discussion of personally identifiable
15 information about any individual student, unless the student or
16 the student's parent or guardian requests otherwise;

17 (5) meetings for the discussion of bargaining
18 strategy preliminary to collective bargaining negotiations
19 between the policymaking body and a bargaining unit
20 representing the employees of that policymaking body and
21 collective bargaining sessions at which the policymaking body
22 and the representatives of the collective bargaining unit are
23 present;

24 (6) that portion of meetings at which a
25 decision concerning purchases in an amount exceeding two

1 thousand five hundred dollars (\$2,500) that can be made only
 2 from one source is discussed and that portion of meetings at
 3 which the contents of competitive sealed proposals solicited
 4 pursuant to the Procurement Code are discussed during the
 5 contract negotiation process. The actual approval of purchase
 6 of the item or final action regarding the selection of a
 7 contractor shall be made in an open meeting;

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

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

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

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

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

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

25 (1) the closure, if made in an open meeting,

.206074.2

1 shall be approved by a majority vote of a quorum of the
2 policymaking body; the authority for the closure and the
3 subject to be discussed shall be stated with reasonable
4 specificity in the motion calling for the vote on a closed
5 meeting; the vote shall be taken in an open meeting; and the
6 vote of each individual member shall be recorded in the
7 minutes. Only those subjects announced or voted upon prior to
8 closure by the policymaking body may be discussed in a closed
9 meeting; or

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

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

25 SECTION 34. Section 10-15-3 NMSA 1978 (being Laws 1974,

.206074.2

1 Chapter 91, Section 3, as amended) is amended to read:

2 "10-15-3. INVALID ACTIONS--STANDING.--

3 A. No resolution, rule, regulation, ordinance or
4 action of any board, commission, committee or other
5 policymaking body shall be valid unless taken or made at a
6 meeting held in accordance with the requirements of Section
7 10-15-1 NMSA 1978. Every resolution, rule, regulation,
8 ordinance or action of any board, commission, committee or
9 other policymaking body shall be presumed to have been taken or
10 made at a meeting held in accordance with the requirements of
11 Section 10-15-1 NMSA 1978.

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

25 C. The district courts of this state shall have

.206074.2

1 jurisdiction, upon the application of any person to enforce the
2 purpose of the Open Meetings Act, by injunction, mandamus or
3 other appropriate order. The court shall award costs and
4 reasonable attorney fees to any person who is successful in
5 bringing a court action to enforce the provisions of the Open
6 Meetings Act. If the prevailing party in a legal action
7 brought under this section is a public body defendant, it shall
8 be awarded court costs. A public body defendant that prevails
9 in a court action brought under this section shall be awarded
10 its reasonable attorney fees from the plaintiff if the
11 plaintiff brought the action without sufficient information and
12 belief that good grounds supported it.

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

16 SECTION 35. Section 10-16-11 NMSA 1978 (being Laws 1967,
17 Chapter 306, Section 11, as amended) is amended to read:

18 "10-16-11. CODES OF CONDUCT.--

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

.206074.2

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

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

.206074.2

1 codes of conduct. All codes shall be filed with the [~~secretary~~
2 ~~of state~~] public accountability board and are open to public
3 inspection.

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

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

10 SECTION 36. Section 10-16-13.1 NMSA 1978 (being Laws
11 1993, Chapter 46, Section 35) is amended to read:

12 "10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

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

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

.206074.2

1 SECTION 37. Section 10-16-18 NMSA 1978 (being Laws 1995,
2 Chapter 153, Section 23) is amended to read:

3 "10-16-18. ENFORCEMENT--CIVIL PENALTIES.--~~[A.]~~ If the
4 ~~[secretary of state]~~ public accountability board reasonably
5 believes that a person committed, or is about to commit, a
6 violation of the Governmental Conduct Act, the ~~[secretary of~~
7 ~~state]~~ board shall ~~[refer the matter to the attorney general or~~
8 ~~a district attorney for enforcement.~~

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

17 SECTION 38. Section 10-16A-1 NMSA 1978 (being Laws 1993,
18 Chapter 46, Section 39) is amended to read:

19 "10-16A-1. SHORT TITLE--FINANCIAL DISCLOSURE ACT.--
20 ~~[Sections 39 through 45 of this act]~~ Chapter 10, Article 16A
21 NMSA 1978 may be cited as the "Financial Disclosure Act"."

22 SECTION 39. Section 10-16A-5 NMSA 1978 (being Laws 1993,
23 Chapter 46, Section 43) is amended to read:

24 "10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

25 A. The secretary of state shall advise and seek to

.206074.2

1 educate all persons required to perform duties under the
2 Financial Disclosure Act of those duties. This includes
3 providing timely advance notice of the required financial
4 disclosure statement and preparing forms that are clear and
5 easy to complete.

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

14 SECTION 40. Section 10-16A-6 NMSA 1978 (being Laws 1993,
15 Chapter 46, Section 44, as amended) is amended to read:

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

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

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

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

19 ~~[D.]~~ C. The [~~arbitrator~~] hearing officer shall
 20 conduct the hearing within thirty days of the request and may
 21 take any action [the secretary of state is] authorized [to
 22 take] by the Financial Disclosure Act. The [arbitrator]
 23 hearing officer shall state the reasons for [his] the decision
 24 in a written document that shall be a public record. [The
 25 decision shall be final and binding.] The decision shall be

.206074.2

1 issued and filed with the board within thirty days of the
2 conclusion of the hearing. [~~Unless otherwise provided for in~~
3 ~~this section, or by rule or regulation adopted by the secretary~~
4 ~~of state, the procedures for the arbitration shall be governed~~
5 ~~by the Uniform Arbitration Act. No arbitrator shall be subject~~
6 ~~to liability for actions taken pursuant to this section.~~

7 ~~E. Any]~~ D. A person who files a statement or
8 report after the deadline imposed by the Financial Disclosure
9 Act, or [~~any~~] a person who files a false or incomplete
10 statement or report, [~~is~~] shall be liable for and shall pay to
11 the [~~secretary of state~~] public election fund, at or from the
12 time initially required for the filing, fifty dollars (\$50.00)
13 per day for each regular working day after the time required
14 for the filing of the statement or report until the complete
15 report is filed, up to a maximum of five thousand dollars
16 (\$5,000).

17 [~~F. The secretary of state may refer a matter to~~
18 ~~the attorney general or a district attorney for a civil~~
19 ~~injunctive or other appropriate order or enforcement.]"~~

20 SECTION 41. Section 10-16A-8 NMSA 1978 (being Laws 1995,
21 Chapter 153, Section 25) is amended to read:

22 "10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--[~~A.~~] If the
23 [~~secretary of state~~] public accountability board reasonably
24 believes that a person committed, or is about to commit, a
25 violation of the Financial Disclosure Act, the [~~secretary of~~

1 state] board shall [~~refer the matter to the attorney general or~~
2 ~~a district attorney for enforcement.~~

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

11 SECTION 42. Section 13-1-177 NMSA 1978 (being Laws 1984,
12 Chapter 65, Section 150, as amended) is amended to read:

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

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

22 B. The term of a suspension pursuant to this
23 section shall not exceed three months; however, if a person,
24 including a bidder, offeror or contractor, has been charged
25 with a criminal offense that would be a cause for debarment

.206074.2

1 pursuant to Section 13-1-178 NMSA 1978, the suspension shall
2 remain in effect until the criminal charge is resolved and the
3 person is debarred or the reason for suspension no longer
4 exists.

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

17 D. As used in this section, the terms "person",
18 "bidder", "offeror" and "contractor" include principals,
19 officers, directors, owners, partners and managers of the
20 person, bidder, offeror or contractor."

21 SECTION 43. Section 13-1-178 NMSA 1978 (being Laws 1984,
22 Chapter 65, Section 151, as amended) is amended to read:

23 "13-1-178. CAUSES FOR DEBARMENT OR SUSPENSION--TIME
24 LIMIT.--

25 A. The causes for debarment or suspension occurring

.206074.2

1 within three years of the date final action on a procurement is
2 taken include but are not limited to the following:

3 (1) criminal conviction of a bidder, offeror
4 or contractor for commission of a criminal offense related to
5 obtaining unlawfully or attempting to obtain a public or
6 private contract or subcontract, or related to the unlawful
7 performance of such contract or subcontract;

8 (2) civil judgment against a bidder, offeror
9 or contractor for a civil violation related to obtaining
10 unlawfully or attempting to obtain a public or private contract
11 or subcontract, or related to the unlawful performance of such
12 contract or subcontract;

13 (3) conviction of a bidder, offeror or
14 contractor under state or federal statutes related to
15 embezzlement, theft, forgery, bribery, fraud, falsification or
16 destruction of records, making false statements or receiving
17 stolen property or for violation of federal or state tax laws;

18 (4) conviction of a bidder, offeror or
19 contractor under state or federal antitrust statutes relating
20 to the submission of offers;

21 (5) criminal conviction against a bidder,
22 offeror or contractor for any other offense related to honesty,
23 integrity or business ethics;

24 (6) civil judgment against a bidder, offeror
25 or contractor for a civil violation related to honesty,

.206074.2

1 integrity or business ethics;

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

4 (8) violation by a bidder, offer or contractor
5 of contract provisions, as set forth in this paragraph, of a
6 character that is reasonably regarded by the [~~state purchasing~~
7 ~~agent or a central purchasing office~~] public accountability
8 board to be so serious as to justify suspension or debarment
9 action, including:

10 (a) willful failure to perform in
11 accordance with one or more contracts; or

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

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

24 (10) for a willful violation by a bidder,
25 offer or contractor of the provisions of the Procurement Code.

.206074.2

underscored material = new
[bracketed material] = delete

1 B. As used in this section, the terms "bidder",
2 "offer or" and "contractor" include principals, officers,
3 directors, owners, partners and managers of the bidder, offeror
4 or contractor."

5 **SECTION 44.** Section 13-1-196 NMSA 1978 (being Laws 1984,
6 Chapter 65, Section 169) is amended to read:

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

19 **SECTION 45.** Section 14-2-12 NMSA 1978 (being Laws 1993,
20 Chapter 258, Section 9) is amended to read:

21 "14-2-12. ENFORCEMENT.--

22 A. An action to enforce the Inspection of Public
23 Records Act may be brought by:

24 (1) the [~~attorney general or the district~~
25 ~~attorney in the county of jurisdiction~~] public accountability

.206074.2

1 board; or

2 (2) a person whose written request has been
3 denied.

4 B. A district court may issue a writ of mandamus or
5 order an injunction or other appropriate remedy to enforce the
6 provisions of the Inspection of Public Records Act.

7 C. The exhaustion of administrative remedies shall
8 not be required prior to bringing any action to enforce the
9 procedures of the Inspection of Public Records Act.

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

15 SECTION 46. Section 34-10-2.1 NMSA 1978 (being Laws 1977,
16 Chapter 289, Section 1) is amended to read:

17 "34-10-2.1. JUDICIAL STANDARDS COMMISSION--DUTIES--
18 SUBPOENA POWER.--

19 A. Pursuant to the judicial standards commission's
20 authority granted by Article 6, Section 32 of the constitution
21 of New Mexico, any justice, judge or magistrate of any court
22 may be disciplined or removed for willful misconduct in office,
23 persistent failure or inability to perform the judge's duties
24 or habitual intemperance, or may be retired for a disability
25 that seriously interferes with the performance of the

.206074.2

1 justice's, judge's or magistrate's duties and that is, or is
2 likely to become, of a permanent character. The judicial
3 standards commission is granted the same authority to regulate
4 the conduct and character of court-appointed commissioners and
5 judicial hearing officers while acting in a judicial capacity.

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

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

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

24 (3) if the commission deems it necessary or
25 convenient, appoint three masters, who are justices or judges

.206074.2

1 of courts of record, to hear and take evidence in any matter
2 arising under Paragraph (1) or (2) of this subsection who shall
3 report their findings to the commission; and

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

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

19 **SECTION 47. TEMPORARY PROVISION--COMPILER'S**
20 **INSTRUCTION.--**The New Mexico compilation commission shall
21 rename Chapter 2, Article 15 NMSA 1978 "Legislative Ethics
22 Committee".

23 **SECTION 48. REPEAL.--**Sections 2-15-1 through 2-15-6,
24 2-15-10 and 10-16-14 NMSA 1978 (being Laws 1993, Chapter 46,
25 Sections 46 through 51 and 55 and Laws 1967, Chapter 306,

1 Section 14, as amended) are repealed.

2 SECTION 49. APPLICABILITY.--The provisions of the Public
3 Accountability Act apply to conduct that occurs on or after
4 January 1, 2019.

5 SECTION 50. EFFECTIVE DATE.--

6 A. The effective date of the provisions of Section 24
7 of this act is July 1, 2017.

8 B. The effective date of the provisions of Section 13
9 of this act is July 1, 2018.

10 C. The effective date of the provisions of Sections 1
11 through 12, 14 through 23, 25 through 46, 48 and 49 of this act
12 is July 1, 2019.

13 - 89 -

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underscoring material = new
[bracketed material] = delete