

1 SENATE BILL 261

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 William H. Payne

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10 AN ACT

11 RELATING TO THE NEW MEXICO COMPILATION COMMISSION; CHANGING THE
12 OPERATIONAL MODEL FOR DISTRIBUTIONS OF STATUTORY AND LEGAL
13 PUBLICATIONS TO PROVIDE FOR FREE ONLINE ACCESS TO STATE AND
14 LOCAL AGENCIES, PUBLIC OFFICIALS AND COURTS AND THE GENERAL
15 PUBLIC; PROVIDING FOR THE PUBLICATION OF PRINT VERSIONS OF
16 CERTAIN PUBLICATIONS BY LICENSING AGREEMENTS; REQUIRING THE
17 ATTORNEY GENERAL TO PROVIDE ALL OPINIONS AND ADVISORY LETTERS
18 TO THE COMMISSION; CHANGING THE MEMBERSHIP OF THE COMMISSION;
19 REPEALING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

22 SECTION 1. Section 8-5-6 NMSA 1978 (being Laws 1979,
23 Chapter 106, Section 1, as amended) is amended to read:

24 "8-5-6. OPINIONS AND REPORT [~~SALE~~].--The New Mexico
25 compilation commission shall receive all opinions and advisory

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1 letters of the attorney general and shall [~~publish and sell~~
2 ~~bound annual volumes to officers and agencies of the state and~~
3 ~~other individuals and entities at a price fixed by the~~
4 ~~compilation commission. The price fixed by the compilation~~
5 ~~commission shall not be less than the replacement cost of the~~
6 ~~volume of opinions plus a markup of not less than twenty-five~~
7 ~~percent nor more than fifty percent of the replacement cost.~~
8 ~~Copies of individual opinions may be sold by the compilation~~
9 ~~commission. All revenue collected from the sale of attorney~~
10 ~~general opinions shall be credited to the New Mexico~~
11 ~~compilation fund] maintain the attorney general's opinions and
12 advisory letters as part of the master database of the
13 commission. The attorney general shall provide the commission
14 with an electronic copy of all opinions and advisory letters as
15 issued in a format mutually agreed upon by the commission and
16 the attorney general."~~

17 SECTION 2. Section 12-1-2 NMSA 1978 (being Laws 1953,
18 Chapter 39, Section 2, as amended) is amended to read:

19 "12-1-2. NEW MEXICO COMPILATION COMMISSION--CREATION.--
20 [~~There is hereby established~~] The "New Mexico compilation
21 commission" is created. The commission [~~shall consist~~
22 consists of the chief justice of the supreme court or a justice
23 designated by the chief justice, who shall act as president of
24 the commission; the clerk of the supreme court; the attorney
25 general or a deputy or assistant attorney general designated by

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1 the attorney general; ~~[the state records administrator or the~~
2 ~~administrator's designee]~~ the dean of the university of New
3 Mexico school of law or the dean's designee; the director of
4 the legislative council service; and the president of the New
5 Mexico state bar association or a member of the state bar
6 commissioners appointed by the president."

7 SECTION 3. Section 12-1-3 NMSA 1978 (being Laws 1977,
8 Chapter 74, Section 2, as amended) is amended to read:

9 "12-1-3. POWERS OF COMMISSION.--The New Mexico
10 compilation commission, acting on the advice and approval of an
11 advisory committee appointed by the New Mexico supreme court,
12 may:

13 A. provide for official, annotated compilations of
14 the New Mexico statutes, ~~[including]~~ court rules ~~[governing~~
15 ~~practice and procedure in the state courts, provide for~~
16 ~~supplements to the compilations]~~ as approved by the supreme
17 court and ~~[do]~~ all other necessary things pertaining to the
18 publication, including online publication, of any compilation
19 and related publications;

20 B. provide for the ~~[sale]~~ licensing of the content
21 of ~~[any]~~ the compilation and ~~[the supplements thereto]~~ any
22 related publications;

23 ~~[C. provide for exchange of compilations and~~
24 ~~supplements with exchange libraries of other states and~~
25 ~~territories;~~

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1 ~~D.~~ C. contract with ~~[the]~~ a publisher ~~[of]~~ for any
2 compilation or related publications as may be necessary or
3 desirable to carry out the provisions of this section;

4 ~~E.~~ D. do all things necessary to keep current
5 ~~[one or more computer databases]~~ the master database of
6 publications published or authorized for publication by the
7 compilation commission ~~[and parallel tables prepared by the~~
8 ~~commission for computerized search and manipulation]~~; and

9 ~~F.~~ E. hire an executive director, ~~[The executive~~
10 ~~director]~~ who shall:

11 (1) serve as the chief administrative officer
12 of the commission;

13 (2) serve at the pleasure of the commission;

14 (3) carry out the policies established by the
15 commission; and

16 (4) within available funding, hire such
17 additional staff as necessary to effectuate the powers
18 exercised by the commission."

19 **SECTION 4.** Section 12-1-3.1 NMSA 1978 (being Laws 1982,
20 Chapter 7, Section 2, as amended) is amended to read:

21 "12-1-3.1. ADDITIONAL POWERS OF COMMISSION--MASTER
22 DATABASE.--

23 A. The New Mexico compilation commission ~~[may~~
24 ~~publish, distribute or sell and]~~ shall keep current the
25 automated legal databases, known as the official "master

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1 database", of the following legal publications, including any
2 revisions,

3 ~~[A. New Mexico reports;~~

4 ~~B. New Mexico municipal benchbook;~~

5 ~~C. New Mexico magistrate benchbook;~~

6 ~~D. advance] and shall provide free online access to~~
7 these publications:

8 (1) all appellate court opinions and
9 decisions;

10 (2) all opinions [compliance guides and
11 informational pamphlets] and advisory letters issued by the
12 attorney general of New Mexico;

13 ~~[E.]~~ (3) publications of session laws and
14 court [and administrative] rules of this state;

15 ~~[F. indices of attorney general opinions;]~~ and

16 ~~[G.]~~ (4) parallel tables of New Mexico laws.

17 B. The commission may license any part of the
18 master database.

19 C. The commission may include other statutory or
20 legal content in the master database and may license the use of
21 that information or may electronically publish that content on
22 its online website."

23 **SECTION 5.** Section 12-1-5 NMSA 1978 (being Laws 1953,
24 Chapter 39, Section 5) is amended to read:

25 "12-1-5. NEW MEXICO COMPILATION FUND--CREATED.--[There
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1 ~~is hereby established in the state treasury a fund to be known~~
2 ~~as]~~ The "New Mexico compilation fund" is created as a
3 nonreverting fund in the state treasury. The fund consists of
4 filing, licensing and other fees; gifts, grants and donations;
5 appropriations; and any other money credited to the fund. The
6 fund shall be administered by the New Mexico compilation
7 commission, and money in the fund is appropriated to the
8 commission to carry out the purposes of Chapter 12, Article 1
9 NMSA 1978. Expenditures from the fund shall be by warrant of
10 the secretary of finance and administration pursuant to
11 vouchers signed by the executive director of the commission or
12 the executive director's authorized representative."

13 SECTION 6. Section 12-1-7 NMSA 1978 (being Laws 1953,
14 Chapter 39, Section 7, as amended) is amended to read:

15 "12-1-7. RECOGNITION AS OFFICIAL COMPILATION.--Upon the
16 annual certification of the compilation of 1978 [~~or any~~
17 ~~supplement~~] by the New Mexico compilation commission, with the
18 advice and approval of the advisory committee of the supreme
19 court, the compilation [~~or supplement~~] shall be in force and
20 [~~printed and electronic copies thereof shall be received~~]
21 recognized, referred to and used in all the courts and in all
22 departments and offices of the state as the official
23 compilation of the statutory law of New Mexico and may be cited
24 as the "NMSA 1978", whether printed under an exclusive license
25 of the content of the compilation or published electronically

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1 free of charge."

2 SECTION 7. Section 12-1-8 NMSA 1978 (being Laws 1977,
3 Chapter 74, Section 5, as amended) is amended to read:

4 "12-1-8. RULES OF CONSTRUCTION GOVERNING COMPILATION OF
5 STATUTES.--In carrying out the duties provided by law and
6 contract, absent an expressed contrary legislative intent, the
7 [~~secretary~~] executive director of the New Mexico compilation
8 commission and the advisory committee of the supreme court
9 shall be governed by the following rules:

10 A. if two or more acts are enacted during the same
11 session of the legislature amending the same section of the
12 NMSA, regardless of the effective [~~date~~] dates of the acts, the
13 act last signed by the governor shall be compiled in the NMSA
14 and, if the New Mexico compilation commission, after
15 consultation with the legislative council service, determines
16 that the provisions of one or more of the earlier signed acts
17 can be reconciled with the act that is to be compiled, those
18 provisions shall be incorporated in the last-signed act and
19 compiled in the NMSA. The history following the amended
20 section shall set forth the section, chapter and year of all
21 acts amending the section. A compiler's note shall be included
22 in the annotations setting forth the nature of the difference
23 between the acts or sections, if any; and

24 B. if two or more irreconcilable acts dealing with
25 the same section of law are enacted by the same session of the

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1 legislature, the last act signed by the governor shall be
2 presumed to be the law. The act last signed by the governor
3 shall be compiled in the NMSA with an annotation following the
4 compiled section setting forth in full the text of any
5 conflicting section of any earlier signed act."

6 SECTION 8. Section 34-4-2 NMSA 1978 (being Laws 1966,
7 Chapter 28, Section 28, as amended) is amended to read:

8 "34-4-2. ~~[SALE OF]~~ APPELLATE COURT REPORTS--INCLUSION IN
9 MASTER DATABASE.--

10 A. The New Mexico compilation commission shall
11 ~~[(1) receive all opinions of the supreme court~~
12 ~~and court of appeals;~~
13 ~~(2) cause them to be published in bound~~
14 ~~volumes to be known as the New Mexico reports; and~~
15 ~~(3) sell them to officers and agencies of the~~
16 ~~state and other individuals and entities at a price fixed by~~
17 ~~the secretary of the New Mexico compilation commission, except~~
18 ~~for those volumes distributed free as provided by law. The~~
19 ~~price fixed by the secretary for volumes of the New Mexico~~
20 ~~reports shall not be less than the replacement cost of the~~
21 ~~volumes plus a markup of not less than twenty-five percent nor~~
22 ~~more than fifty percent of replacement costs.~~

23 B. ~~All money received from the sales of the New~~
24 ~~Mexico reports shall be paid to the state treasurer for credit~~
25 ~~to the New Mexico compilation fund, no part of which shall~~

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1 ~~revert at the end of any fiscal year.~~

2 ~~G. The secretary of the New Mexico compilation~~
3 ~~commission may distribute without charge copies of the supreme~~
4 ~~court and court of appeals reports to officers and agencies of~~
5 ~~the federal government and other states, districts, territories~~
6 ~~or possessions of the United States, in exchange for similar~~
7 ~~materials needed by the supreme court law library.~~

8 ~~D. Copies of the court reports supplied to officers~~
9 ~~and agencies of New Mexico remain the property of the state and~~
10 ~~shall be delivered to their successors] maintain and update all~~
11 ~~opinions and decisions of the appellate courts in the master~~
12 ~~database of the commission and provide them free of charge on~~
13 ~~its online website.~~

14 ~~B. The courts shall provide the commission with an~~
15 ~~electronic copy of each opinion and decision as it is issued."~~

16 SECTION 9. TEMPORARY PROVISIONS--DISPOSAL OF SETS--
17 CONTRACTS.--

18 A. On the effective date of this act, all state,
19 local and district officers designated by the New Mexico
20 compilation commission to receive distributions of sets of the
21 compilation, replacement volumes or replacement pamphlets may
22 dispose of such sets according to procedures set out for
23 disposal of surplus property. Sets shall not be delivered or
24 returned to the office of the commission in Santa Fe. The
25 commission shall determine how many full sets of the printed

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1 statutes and other publications it will maintain for
2 historical, reference and possible replacement purposes, and
3 the remainder of the sets held by the commission may be
4 disposed of according to procedures set out for the disposal of
5 surplus property.

6 B. All contracts in effect on the effective date of
7 this act shall continue to be effective until the contract has
8 been completed or the commission decides to terminate the
9 contract.

10 C. On the effective date of this act, all
11 references in law and other legal documents to the New Mexico
12 statutes annotated or the NMSA 1978 shall be deemed to be
13 references to the content of the master database.

14 SECTION 10. REPEAL.--Sections 8-5-7, 8-5-14, 12-1-4,
15 12-1-6 and 35-7-6 NMSA 1978 (being Laws 1959, Chapter 20,
16 Section 2, Laws 1959, Chapter 21, Section 7, Laws 1953, Chapter
17 39, Sections 4 and 6 and Laws 1968, Chapter 62, Section 101, as
18 amended) are repealed.

19 SECTION 11. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is May 3, 2019.

21 SECTION 12. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect immediately.