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SENATE BILL 281

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO PUBLIC UTILITIES; AMENDING SECTIONS OF THE ELECTION CODE TO REMOVE PUBLIC REGULATION COMMISSIONERS AS ELECTED OFFICIALS; REPEALING THE PUBLIC REGULATION COMMISSION APPORTIONMENT ACT; RECOMPILING THE PUBLIC REGULATION COMMISSION ACT AND AMENDING PROVISIONS OF THAT ACT; CREATING THE PUBLIC REGULATION COMMISSION NOMINATING COMMITTEE; PROVIDING PROCEDURES FOR THE PUBLIC REGULATION COMMISSION NOMINATING COMMITTEE.

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

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

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

A. Before each federal decennial census, every precinct shall comply with the requirements of Section 1-3-1

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1 NMSA 1978, and if necessary its boundary shall be adjusted to  
2 coincide with a feature or a boundary that is:

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

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

7 (3) approved by the secretary of state and the  
8 United States [~~bureau of the~~] census bureau.

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

14 (1) all state and federal highways;

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

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

19 (4) all major railroad lines;

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

23 (6) all streets within urban areas; and

24 (7) other major terrain features, such as  
25 flowing rivers and streams, arroyos, power lines, pipelines,

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1 roads, trails and ridgelines and other acceptable census block  
2 boundaries.

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

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

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

19 D. The precincts shown upon the standard base maps  
20 submitted pursuant to the provisions of this section and as  
21 revised and approved by the secretary of state pursuant to the  
22 Precinct Boundary Adjustment Act shall become the official  
23 precincts of each county for the 2021 redistricting. For the  
24 2022 and subsequent statewide elections, changes in precincts  
25 shall be made in accordance with the provisions of Chapter 1,

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1 Article 3 NMSA 1978.

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

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

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

18 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--  
19 CONVENTION--DESIGNATED NOMINEES.--

20 A. If the rules of a minor political party require  
21 nomination by political convention:

22 (1) the chair and secretary of the state  
23 political convention shall certify to the secretary of state  
24 the names of their party's nominees for United States senator,  
25 United States representative, all elective state offices,

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1 legislative offices elected from multicounty districts, [~~the~~  
2 ~~public regulation commission~~] all elective judicial officers in  
3 the judicial department and all offices representing a district  
4 composed of more than one county; and

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

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

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

18 (2) in the district for offices other than  
19 statewide offices.

20 The petition shall contain a statement that the voters  
21 signing the petition are residents of the area to be  
22 represented by the office for which the person being nominated  
23 is a candidate.

24 C. The names certified to the county clerk shall be  
25 filed on the twenty-third day following the primary election in

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1 the year of the general election and shall be accompanied by a  
2 nominating petition containing the signatures of voters  
3 totaling not less than one percent of the total number of votes  
4 cast for governor at the last preceding general election at  
5 which a governor was elected:

6 (1) in the county for countywide offices; and

7 (2) in the district for offices other than  
8 countywide offices.

9 The petition shall contain a statement that the voters  
10 signing the petition are residents of the area to be  
11 represented by the office for which the person being nominated  
12 is a candidate.

13 D. Except in the case of a political party  
14 certified in the year of the election, persons certified as  
15 candidates shall be members of that party on the day the  
16 secretary of state issues the general election proclamation.

17 E. When a political party is certified in the year  
18 of the general election, and after the day the secretary of  
19 state issues the general election proclamation, a person  
20 certified as a candidate shall be:

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

24 (2) a resident in the district of the office  
25 for which the person is a candidate on the date of the

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

9 F. No voter shall sign a petition prescribed by  
10 this section for more persons than the number of candidates  
11 necessary to fill the office at the next ensuing general  
12 election."

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

15 "1-8-3. NOMINATION BY MINOR POLITICAL PARTY--OTHER  
16 METHODS.--If the rules and regulations of a minor political  
17 party require nomination by a method other than a political  
18 convention:

19 A. the state [~~chairman~~] chair and the governing  
20 board of the state party shall certify to the secretary of  
21 state the names of their party's nominees for United States  
22 senator, United States representative, all elective state  
23 offices, legislative offices elected from multicounty  
24 districts, [~~public regulation commission~~] all elective judicial  
25 officers in the judicial department and all offices

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1 representing a district composed of more than one county;

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

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

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

15 "1-8-13. PRIMARY ELECTION LAW--CONTENTS OF  
16 PROCLAMATION.--The general election proclamation calling a  
17 primary and general election shall contain:

18 A. the names of the major political parties  
19 participating in the primary election;

20 B. the offices to be elected at the general  
21 election and for which each political party shall nominate  
22 candidates; provided that if any law is enacted by the  
23 legislature in the year in which the primary election is held  
24 and the law does not take effect until after the date to amend  
25 the proclamation but prior to the date to fill vacancies

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1 pursuant to Section 1-8-7 or 1-8-8 NMSA 1978, the secretary of  
2 state shall conform the proclamation to the intent of the law  
3 with respect to the offices for which each political party  
4 shall nominate candidates;

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

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

19 E. the final date on and place at which candidates  
20 for the office of United States representative and for any  
21 statewide office seeking preprimary convention designation by  
22 the major parties shall file petitions and declarations of  
23 candidacy;

24 F. the final date on which the major political  
25 parties shall hold state preprimary conventions for the

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1 designation of candidates;

2 G. the final date on and place at which  
3 certificates of designation of primary election candidates  
4 shall be filed by political parties with the secretary of  
5 state;

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

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

16 J. the date on which declarations of candidacy for  
17 nonpartisan judicial retention shall be filed and the places  
18 where the declarations of candidacy shall be filed in order to  
19 have the judicial retention names printed on the official  
20 ballot of the general election; and

21 K. the date on which declarations to be a write-in  
22 candidate are to be filed and the places where the declarations  
23 of candidacy shall be filed in order to have write-in votes  
24 counted and canvassed at the political party primary or general  
25 election."

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

3           "1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--  
4 NUMBER OF SIGNATURES REQUIRED.--

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

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

18           C. Nominating petitions for candidates for any  
19 other office to be voted on at the primary election for which  
20 nominating petitions are required shall be signed by a number  
21 of voters equal to at least three percent of the total vote of  
22 the candidate's party in the district or division, or the  
23 following number of voters, whichever is greater: for  
24 metropolitan court and magistrate courts, ten voters; [~~for the~~  
25 ~~public regulation commission, fifty voters~~] for the public

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1 education commission, twenty-five voters; for state  
2 representative, ten voters; for state senator, seventeen  
3 voters; and for district attorney and district judge, fifteen  
4 voters.

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

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

21 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

22 A. Write-in candidates are permitted in the primary  
23 election only for the offices of United States representative,  
24 members of the legislature, district judges, district  
25 attorneys, [~~public regulation commission~~] public education

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1 commission, magistrates and any office voted upon by all voters  
2 of the state.

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

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

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

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

24 "1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED  
25 STATES REPRESENTATIVE ELECTIONS--NOMINATING PETITIONS--REQUIRED

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1 NUMBER OF SIGNATURES.--

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

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

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

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

19 E. Nominating petitions for an independent  
20 candidate for a member of the legislature, [~~public regulation~~  
21 ~~commission~~] district judge, district attorney, member of the  
22 public education commission, magistrate or county office shall  
23 be signed by a number of voters equal to at least two percent  
24 of the total number of votes cast in the district, division or  
25 county, as the case may be.

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

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

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

23 G. A voter shall not sign a petition for an  
24 independent candidate as provided in this section if the voter  
25 has signed a petition for another independent candidate for the

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1 same office."

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

4 "1-10-8. BALLOTS--ORDER OF OFFICES AND BALLOT  
5 QUESTIONS.--

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

- 10 (1) in a presidential primary, president;
- 11 (2) in a general election, president and vice  
12 president as a ticket;
- 13 (3) United States senator;
- 14 (4) United States representative;
- 15 (5) state senator;
- 16 (6) state representative;
- 17 (7) supreme court;
- 18 (8) court of appeals;
- 19 [~~(9)~~] ~~public regulation commission districts~~  
20 ~~with odd-numbered designations;~~
- 21 ~~(10)]~~ (9) public education commission  
22 districts with odd-numbered designations;
- 23 [~~(11)]~~ (10) district court;
- 24 [~~(12)]~~ (11) metropolitan court;
- 25 [~~(13)]~~ (12) county clerk;



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1                    [~~(14)~~] (13) county treasurer; and  
2                    [~~(15)~~] (14) county commission districts and  
3 positions with odd-numbered designations.

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

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

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- 1                   ~~(15)~~ (14) public education commission
- 2 districts with even-numbered designations;
- 3                   ~~(16)~~ (15) district court;
- 4                   ~~(17)~~ (16) district attorney;
- 5                   ~~(18)~~ (17) metropolitan court;
- 6                   ~~(19)~~ (18) magistrate court;
- 7                   ~~(20)~~ (19) county sheriff;
- 8                   ~~(21)~~ (20) county assessor;
- 9                   ~~(22)~~ (21) county commission districts and
- 10 positions with even-numbered designations; and
- 11                   ~~(23)~~ (22) probate judge.

12                   C. The ballot in a regular local election shall

13 contain, when applicable, nonpartisan offices to be voted on in

14 the following order:

- 15                   (1) municipal, with elective executive
- 16 officers listed first, governing board members listed second
- 17 and judicial officers listed third;
- 18                   (2) board of education of a school district;
- 19                   (3) community college, branch community
- 20 college, technical and vocational institute district or
- 21 learning center district; and
- 22                   (4) special districts listed in order by
- 23 voting population of each special district, with the most
- 24 populous listed first and the least populous listed last.

25                   D. The ballot in a statewide election shall

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) for that office in the case of a

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1 ~~[public regulation commissioner]~~ public education commissioner,  
2 district attorney or any office elected countywide in a county  
3 with more than one hundred fifty thousand registered voters;

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

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

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

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

23 C. Automatic recounts shall be conducted pursuant  
24 to the recount procedures established in Sections 1-14-16 and  
25 1-14-18 through 1-14-23 NMSA 1978."

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

3           "1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

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

7           B. "certified candidate" means a candidate running  
8 for a covered office who chooses to obtain financing pursuant  
9 to the Voter Action Act and is certified as a Voter Action Act  
10 candidate;

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

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

21                   (1) a qualifying contribution;

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

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

4 E. "coordinated expenditure" means an expenditure  
5 that is made:

6 (1) by a person other than a candidate or  
7 campaign committee;

8 (2) at the request or suggestion of, or in  
9 cooperation, consultation or concert with, a candidate,  
10 campaign committee or political party or any agent or  
11 representative of such a candidate, campaign committee or  
12 political party; and

13 (3) for the purpose of:

14 (a) supporting or opposing the  
15 nomination or election of a candidate; or

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

22 F. "covered office" means any office of the  
23 judicial department subject to statewide elections [~~and the~~  
24 ~~office of public regulation commissioner~~];

25 G. "expenditure" means a payment, transfer or



1 distribution of, or a promise to pay, transfer or distribute,  
2 any money or other thing of value for the purpose of supporting  
3 or opposing the nomination or election of a candidate;

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

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

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

12 (2) made during the designated qualifying  
13 period and obtained through efforts made with the knowledge and  
14 approval of the applicant candidate; and

15 (3) acknowledged by a receipt that identifies  
16 the contributor's name and residential address on forms  
17 provided by the bureau of elections and that is signed by the  
18 contributor, one copy of which is attached to the list of  
19 contributors and sent to the bureau of elections;

20 J. "qualifying period" means:

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

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

6 K. "secretary" means the secretary of state or the  
7 office of the secretary of state."

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

10 "1-19A-4. QUALIFYING CONTRIBUTIONS.--

11 A. Applicant candidates for all statewide judicial  
12 elective offices shall obtain qualifying contributions [as  
13 follows:

14 ~~(1) for all statewide judicial elective~~  
15 ~~offices, the number of qualifying contributions]~~ equal to one-  
16 tenth of one percent of the number of voters in the state [and

17 ~~(2) for the office of public regulation~~  
18 ~~commissioner, the number of qualifying contributions equal to~~  
19 ~~one-tenth of one percent of the number of voters in the~~  
20 ~~district of the office for which the candidate is running].~~

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

25 C. Voters registered as independent are not

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1 excluded from making qualifying contributions but shall be  
2 registered within the statutory time frame as independent.

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

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

7 "1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

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

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

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

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

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

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

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

25 (2) any recurring balance of unspent fund

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1 money distributed to a certified candidate who does not remain  
2 a candidate through the primary or general election period for  
3 which the money was distributed;

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

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

10 (5) unspent contributions to a candidate;

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

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

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

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

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

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

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

6           "1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

7           A. By September 1 of each odd-numbered year, the  
8 secretary shall determine the amount of money to be distributed  
9 to each certified candidate for the election cycle ending with  
10 the next general election, based on the type of election and  
11 the provisions of Subsections B through G of this section.

12           B. For contested primary elections, the amount of  
13 money to be distributed to a certified candidate is equal to  
14 ~~[the following:~~

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

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

22           C. For uncontested primary elections in which  
23 another candidate has filed a declaration of candidacy for  
24 nomination in another party's primary for the same office and  
25 that candidate's primary is contested, the amount of money to

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1 be distributed to a certified candidate is equal to twenty  
2 percent of the amount specified in Subsection B of this  
3 section.

4 D. For uncontested primary elections in which  
5 another candidate has filed a declaration of candidacy for  
6 nomination in another party's primary for the same office, but  
7 no primary for the office is contested, the amount of money to  
8 be distributed to a certified candidate is equal to the average  
9 of the amount each candidate would receive pursuant to  
10 Subsection B of this section.

11 E. For contested general elections, the amount of  
12 money to be distributed to a certified candidate is equal to  
13 ~~[the following:~~

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

17 ~~(2) for the office of justice of the supreme~~  
18 ~~court and judge of the court of appeals] fifteen cents (\$.15)~~  
19 for each voter in the state.

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

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

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

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

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

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

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

10 "8-1-1. COMPENSATION OF ELECTIVE STATE OFFICERS.--

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

13	governor . . . . .	\$110,000
14	secretary of state . . . . .	85,000
15	state auditor . . . . .	85,000
16	state treasurer . . . . .	85,000
17	attorney general . . . . .	95,000
18	commissioner of public lands . . . . .	90,000
19	<del>[public regulation commissioner . . . . .</del>	<del>90,000]</del>

20 B. Any person succeeding to the office of governor  
21 as provided in Article 5, Section 7 of the constitution of New  
22 Mexico shall receive the salary of the office. Every person  
23 serving as acting governor during the incapacity or absence of  
24 the governor from the state, other than the secretary of state,  
25 shall receive two hundred fifty dollars (\$250) as compensation



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1 for each day's service as acting governor.

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

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

9 "SHORT TITLE.--~~[Chapter 8, Article 8]~~ Chapter 62, Article  
10 19 NMSA 1978 may be cited as the "Public Regulation Commission  
11 Act"."

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

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

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

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

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

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

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1 Regulation Commission Act and is amended to read:

2 "PUBLIC REGULATION COMMISSION.--

3 A. The "public regulation commission", created in  
4 Article 11, Section 1 of the constitution of New Mexico, is  
5 composed of [~~five~~] three commissioners [~~elected from districts~~]  
6 appointed by the governor with the consent of the senate as  
7 provided in that article [~~and the Public Regulation Commission~~  
8 ~~Apportionment Act~~].

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

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

15 "[NEW MATERIAL] PUBLIC REGULATION COMMISSION NOMINATING  
16 COMMITTEE.--

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

- 19 (1) knowledgeable about public utility  
20 regulation;
- 21 (2) not employed by or on behalf of or have a  
22 contract with a public utility that is regulated by the  
23 commission;
- 24 (3) not applicants or nominees for a position  
25 on the commission; and

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1 (4) appointed as follows:

2 (a) four members appointed one each by  
3 the speaker of the house of representatives, the minority floor  
4 leader of the house of representatives, the majority floor  
5 leader of the senate and the minority floor leader of the  
6 senate, with no more than two members being from the same  
7 political party; and

8 (b) three members appointed one each by  
9 the presidents of the university of New Mexico, New Mexico  
10 state university and the New Mexico institute of mining and  
11 technology, with no more than two members being from the same  
12 political party.

13 B. A committee member shall:

14 (1) be a resident of New Mexico;

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

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

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

24 D. Administrative support shall be provided to the  
25 committee by the staff of the commission.

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1           E. Initial appointments to the committee shall be  
2 made by the appointing authorities prior to July 1, 2022.  
3 Subsequent appointments shall be made no later than thirty days  
4 before the end of a term.

5           F. The first meeting of the appointed members of  
6 the committee shall be held prior to September 1, 2022. The  
7 committee shall select one member to be chair and one member to  
8 be secretary. Following the first meeting, the committee shall  
9 meet as often as necessary in order to submit a list to the  
10 governor of no fewer than five qualified nominees for  
11 appointment to the commission for the terms beginning January  
12 1, 2023. The list shall be developed to provide geographical  
13 diversity, and nominees on the list shall be from at least  
14 three different counties of the state.

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

23           H. Upon the occurrence of a vacancy in a  
24 commissioner position, the committee shall meet within thirty  
25 days of the date of the beginning of the vacancy and as often

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1 as necessary thereafter in order to submit a list to the  
2 governor, within sixty days of the first meeting after the  
3 vacancy occurs, of no fewer than two qualified nominees from  
4 diverse geographical areas of the state for appointment to the  
5 commission to fill the remainder of the term of each  
6 commissioner position that is vacant.

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

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

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

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

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

25 "QUALIFICATIONS OF COMMISSIONERS.--

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

4                   (1) having at least ten years of professional  
5 experience in an area regulated by the commission or in the  
6 energy sector and involving a scope of work that includes  
7 accounting, public or business administration, economics,  
8 finance, statistics, engineering or law; or

9                   (2) having a total of ten years of combined  
10 professional experience as described in Paragraph (1) of this  
11 subsection and higher education resulting in at least a  
12 professional license or a baccalaureate degree from an  
13 institution of higher education that has been accredited by a  
14 regional or national accrediting body in an area regulated by  
15 the commission ~~[including]~~ or in accounting, public or business  
16 administration, economics, finance, statistics, engineering or  
17 law.

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

22                   (1) engaged in policy analysis, research or  
23 implementation in an area regulated by the commission or in the  
24 energy sector;

25                   (2) managed, as the head, deputy head or

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1 division director, a federal, state, tribal or local government  
2 department or division responsible for utilities,  
3 transportation or construction; or

4 (3) managed a business or organization  
5 regulated by the commission or in the energy sector that had  
6 five or more employees during the time it was managed by the  
7 ~~[candidate or]~~ prospective appointee.

8 C. A ~~[candidate for election]~~ nominee for  
9 appointment to the office of commissioner shall certify by  
10 notarized affidavit that the ~~[candidate]~~ nominee meets the  
11 requirements of Subsection A of this section to be filed with  
12 the ~~[declaration of candidacy]~~ public regulation commission  
13 nominating committee. The affidavit shall be on a form  
14 provided by the ~~[secretary of state]~~ public regulation  
15 commission nominating committee that shall permit a ~~[candidate]~~  
16 nominee to list with particularity the ~~[candidate's]~~ nominee's  
17 specific professional experience or higher education that meets  
18 the requirements of Subsection A of this section.

19 ~~[D. A voter may challenge the candidacy for~~  
20 ~~election to the office of commissioner of any person seeking~~  
21 ~~nomination for the reason that the person seeking nomination~~  
22 ~~does not meet the requirements of Subsection A of this section~~  
23 ~~or that the affidavit of the person seeking nomination does not~~  
24 ~~contain sufficient information to determine if the person meets~~  
25 ~~the requirements of Subsection A of this section. The~~

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1 ~~challenge shall be made by filing a petition in the district~~  
2 ~~court within ten days after the last day for filing a~~  
3 ~~declaration of candidacy or a statement of candidacy for~~  
4 ~~convention designation, which petition shall be heard in the~~  
5 ~~same manner as provided in Subsection E of Section 1-8-26 NMSA~~  
6 ~~1978.]"~~

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

10 "CONTINUING EDUCATION REQUIREMENTS FOR COMMISSIONERS.--

11 A. Beginning July 1, 2013, a commissioner shall  
12 complete:

13 (1) an ethics certificate course provided in  
14 person or online by a New Mexico public post-secondary  
15 educational institution in the first twelve-month period after  
16 taking office and at least one two-hour ethics course in each  
17 subsequent twelve-month period that the commissioner serves in  
18 office; and

19 (2) at least thirty-two hours of continuing  
20 education relevant to the work of the commission in each  
21 twelve-month period that the commissioner serves in office.  
22 Continuing education courses shall be endorsed by the national  
23 association of regulatory utility commissioners or by the  
24 relevant licensing or professional association for a qualifying  
25 area of study for degree holders pursuant to this section.

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1           B. A commissioner shall be responsible for having  
2 the endorsing organization submit certification of completion  
3 of the hours of education required pursuant to Subsection A of  
4 this section to the commission's chief of staff.

5           C. [~~As an exception to Section 8-1-1 NMSA 1978~~] If  
6 a commissioner fails to comply with the education requirements  
7 in Subsection A of this section by the last day of a  
8 twelve-month period, the commissioner's compensation for  
9 performing the duties of the office shall be withheld by the  
10 commission until the requirements for the preceding  
11 twelve-month period or periods have been met."

12           SECTION 21. Section 8-8-18 NMSA 1978 (being Laws 1998,  
13 Chapter 108, Section 18) is recompiled as part of the Public  
14 Regulation Commission Act and is amended to read:

15           "RECUSAL OF COMMISSIONER OR HEARING EXAMINER.--

16           A. A commissioner or hearing examiner shall self  
17 recuse [~~himself~~] in any adjudicatory proceeding in which [~~he~~]  
18 the commissioner or hearing examiner is unable to make a fair  
19 and impartial decision or in which there is reasonable doubt  
20 about whether [~~he~~] the commissioner or hearing examiner can  
21 make a fair and impartial decision, including:

22                   (1) when [~~he~~] the commissioner or hearing  
23 examiner has a personal bias or prejudice concerning a party or  
24 its representative or has prejudged a disputed evidentiary fact  
25 involved in a proceeding prior to hearing. For the purposes of

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1 this paragraph, "personal bias or prejudice" means a  
2 predisposition toward a person based on a previous or ongoing  
3 relationship, including a professional, personal, familial or  
4 other intimate relationship, that renders the commissioner or  
5 hearing examiner unable to exercise [~~his~~] the commissioner's or  
6 hearing examiner's functions impartially;

7 (2) when [~~he~~] the commissioner or hearing  
8 examiner has a pecuniary interest in the outcome of the  
9 proceeding other than as a customer of a party;

10 (3) when in previous employment [~~he~~] the  
11 commissioner or hearing examiner served as an attorney,  
12 adviser, consultant or witness in the matter in controversy; or

13 (4) when, as a [~~candidate for~~] nominee for  
14 appointment to office, [~~he~~] the nominee announced how [~~he~~] the  
15 nominee would rule on the adjudicatory proceeding or a factual  
16 issue in the adjudicatory proceeding.

17 B. If a commissioner or hearing examiner fails to  
18 self recuse [~~himself~~] when it appears that grounds exist, a  
19 party shall promptly notify the commissioner or hearing  
20 examiner of the apparent grounds for recusal. If the  
21 commissioner or hearing examiner declines to self recuse  
22 [~~himself~~] upon request of a party, [~~he~~] the commissioner or  
23 hearing examiner shall provide a full explanation in support of  
24 [~~his~~] the refusal [~~to recuse himself~~]."

25 SECTION 22. Section 8-8-19 NMSA 1978 (being Laws 1998,

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[bracketed material] = delete

1 Chapter 108, Section 19) is recompiled as part of the Public  
2 Regulation Commission Act and is amended to read:

3 "PROHIBITED ACTS--CANDIDATES--COMMISSIONERS AND  
4 EMPLOYEES.--

5 A. As used in this section, in addition to the  
6 definitions provided in Section [~~2 of the Public Regulation~~  
7 ~~Commission Act~~] 8-8-2 NMSA 1978:

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

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

25 (3) "pecuniary interest" includes owning or

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1 controlling securities; serving as an officer, director,  
2 partner, owner, employee, attorney or consultant; or otherwise  
3 benefiting from a business relationship. "Pecuniary interest"  
4 does not include an investment in a mutual fund or similar  
5 third-party-controlled investment, pension or disability  
6 benefits or an interest in capital credits of a rural electric  
7 cooperative or telephone cooperative because of current or past  
8 patronage; and

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

15 B. In addition to the requirements of the Financial  
16 Disclosure Act and the Governmental Conduct Act, [~~candidates~~  
17 ~~for~~] nominees for appointment to the commission, commissioners  
18 and employees of the commission shall comply with the  
19 requirements of [~~this section and Sections 17 and 18 of~~] the  
20 Public Regulation Commission Act, as applicable.

21 C. A [~~candidate for election~~] a nominee for  
22 appointment to the [~~public regulation~~] commission shall not  
23 solicit or accept

24 [~~(1)~~] anything of value, either directly or  
25 indirectly, from a person whose charges for services to the

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1 public are regulated by the commission. For the purposes of  
2 this ~~[paragraph]~~ subsection, "anything of value" includes  
3 money, in-kind contributions and volunteer services to the  
4 ~~[candidate or his campaign]~~ nominee or the nominee's  
5 organization, but does not include pension or disability  
6 benefits ~~[or~~

7 ~~(2) more than five hundred dollars (\$500) per~~  
8 ~~election from any other person].~~

9 D. A commissioner or employee of the commission  
10 shall not:

11 (1) accept anything of value from a regulated  
12 entity, affiliated interest or intervenor. ~~[For the purposes~~  
13 ~~of this paragraph, a commissioner may accept allowable campaign~~  
14 ~~contributions when campaigning for reelection.]~~ For the  
15 purposes of this paragraph, "anything of value" does not  
16 include:

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

21 (b) inexpensive promotional items that  
22 are available to all customers of the regulated entity,  
23 affiliated interest or intervenor; or

24 (c) pension or disability benefits  
25 received from a regulated entity, affiliated interest or

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1        intervenor;

2                   (2)    have a pecuniary interest in a regulated  
3        entity, affiliated interest or intervenor, and if a pecuniary  
4        interest in an intervenor develops, the commissioner or  
5        employee shall divest [~~himself of~~] that interest or self recuse  
6        [~~himself~~] from the proceeding with the intervenor interest; or

7                   (3)    solicit any regulated entity, affiliated  
8        interest or intervenor to appoint a person to a position or  
9        employment in any capacity.

10                E.    After leaving the commission:

11                   (1)    a former commissioner shall not be  
12        employed or retained in a position that requires appearances  
13        before the commission by a regulated entity, affiliated  
14        interest or intervenor within two years of [~~his~~] the former  
15        commissioner's separation from the commission;

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

20                   (3)    a former commissioner or employee shall  
21        not represent a party before the commission or a court in a  
22        matter that was pending before the commission while the  
23        commissioner or employee was associated with the commission and  
24        in which [~~he~~] the former commissioner or employee was  
25        personally and substantially involved in the matter.

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1           F. The attorney general or a district attorney may  
2 institute a civil action in the district court for Santa Fe  
3 county or, in ~~[his]~~ the attorney general's or a district  
4 attorney's discretion, the district court for the county in  
5 which a defendant resides if a violation of this section has  
6 occurred or to prevent a violation of this section. A civil  
7 penalty may be assessed in the amount of two hundred fifty  
8 dollars (\$250) for each violation, not to exceed five thousand  
9 dollars (\$5,000)."

10           **SECTION 23. TEMPORARY PROVISION.**--Sections 8-8-4 through  
11 8-8-17 and 8-8-20 NMSA 1978 (being Laws 1998, Chapter 108,  
12 Sections 4 through 8, 10 through 17 and Section 20; Laws 2000,  
13 Chapter 100, Section 1; Laws 2001, Chapter 80, Section 1; Laws  
14 2007, Chapter 16, Section 4; and Laws 2009, Chapter 216,  
15 Section 1, as amended) are recompiled as part of the Public  
16 Regulation Commission Act.

17           **SECTION 24. REPEAL.**--Sections 8-7-1 through 8-7-11 NMSA  
18 1978 (being Laws 1997, Chapter 262, Sections 1 through 5 and  
19 Laws 2001 (1st S.S.), Chapter 3, Section 8, as amended) are  
20 repealed.

21           **SECTION 25. CONTINGENT EFFECTIVE DATE.**--The provisions of  
22 this act shall become effective on the following dates upon  
23 certification by the secretary of state that the constitution  
24 of New Mexico has been amended as proposed by a joint  
25 resolution of the first session of the fifty-fourth

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

1 legislature, entitled "A JOINT RESOLUTION PROPOSING TO AMEND  
2 THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT THE PUBLIC  
3 REGULATION COMMISSION CONSIST OF THREE MEMBERS APPOINTED BY THE  
4 GOVERNOR FROM A LIST OF PROFESSIONALLY QUALIFIED NOMINEES  
5 SUBMITTED TO THE GOVERNOR BY A NOMINATING COMMITTEE AS PROVIDED  
6 BY LAW AND THAT THE COMMISSION IS REQUIRED TO REGULATE PUBLIC  
7 UTILITIES AND MAY BE REQUIRED TO REGULATE OTHER PUBLIC SERVICE  
8 COMPANIES". If the certification occurs, the effective date of  
9 the provisions of:

10 A. Sections 1 through 17 and 19 through 24 of this  
11 act is January 1, 2023; and

12 B. Section 18 of this act is January 1, 2022.