

1 SENATE BILL 192

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO SPECIAL PROSECUTORS; REQUIRING A SPECIAL PROSECUTOR
12 TO BE APPOINTED TO INVESTIGATE ALLEGED VIOLATIONS OF THE
13 ELECTION CODE OR THE MUNICIPAL ELECTION CODE.

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

16 SECTION 1. Section 1-19-36 NMSA 1978 (being Laws 1979,
17 Chapter 360, Section 12, as amended) is amended to read:

18 "1-19-36. PENALTIES--CRIMINAL ENFORCEMENT.--

19 A. Any person who knowingly and willfully violates
20 any provision of the Campaign Reporting Act is guilty of a
21 misdemeanor and shall be punished by a fine of not more than
22 one thousand dollars (\$1,000) or by imprisonment for not more
23 than one year or both.

24 B. The Campaign Reporting Act may be enforced by a
25 special prosecutor appointed pursuant to Section 36-1-23.1 NMSA

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1 1978. The special prosecutor may be appointed by the attorney
2 general or by the district attorney in the county where the
3 candidate resides, where a political committee has its
4 principal place of business or where the violation occurred."

5 SECTION 2. Section 36-1-23.1 NMSA 1978 (being Laws 1984,
6 Chapter 109, Section 2) is amended to read:

7 "36-1-23.1. SPECIAL PROSECUTORS IN CONFLICT CASES.--

8 A. Each district attorney may ~~[when he cannot~~
9 ~~prosecute a case for ethical reasons or other good cause]~~
10 appoint a practicing member of the bar of this state to act as
11 special assistant district attorney when the district attorney
12 cannot prosecute a case for ethical reasons or other good
13 cause.

14 B. Each district attorney shall appoint a
15 practicing member of the bar of this state to act as special
16 assistant district attorney when the district attorney receives
17 a referral from the secretary of state or a county clerk
18 alleging violations of the Election Code or the Municipal
19 Election Code. An appointment made pursuant to this subsection
20 shall be made within thirty days of receiving the referral from
21 the secretary of state or a county clerk.

22 C. Any person [so] appointed as a special
23 prosecutor shall have authority to act only in the specific
24 case or matter for which the appointment was made. An
25 appointment and oath shall be required of special assistant

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1 district attorneys in substantially the same form as that
2 required for assistant district attorneys in Section 36-1-2
3 NMSA 1978."

4 SECTION 3. APPLICABILITY.--The provisions of this act are
5 applicable to any referrals made on or after the effective date
6 of this act, as well as any referrals pending on the effective
7 date of this act, for which the statute of limitations on the
8 elections violations alleged has not expired.

9 SECTION 4. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2015.