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AN ACT
RELATING TO THE INSURANCE NOMINATING COMMITTEE; AMENDING
CERTAIN PROVISIONS REGARDING THE COMMITTEE AND SUPERINTENDENT
OF INSURANCE; PROVIDING THAT THE OFFICE OF SUPERINTENDENT OF
INSURANCE WILL ADMINISTRATIVELY SUPPORT THE INSURANCE
NOMINATING COMMITTEE; MAKING THE INSURANCE NOMINATING
COMMITTEE AND ITS MEMBERS SUBJECT TO THE PROVISIONS OF
CERTAIN LAWS.

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

SECTION 1. Section 10-16A-3 NMSA 1978 (being Laws 1993,
Chapter 46, Section 41, as amended) is amended to read:

"10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES
AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON
BALLOT OR APPOINTMENT.--

A. At the time of filing a declaration of
candidacy or nominating petition, a candidate for legislative
or statewide office shall file with the proper filing
officer, as defined in Section 1-8-25 NMSA 1978, a financial
disclosure statement on a prescribed form. In addition, each
year thereafter during the month of January, a legislator and
a person holding a statewide office shall file with the
proper filing officer a financial disclosure statement. If
the proper filing officer is not the secretary of state, the
proper filing officer shall forward a copy of the financial
disclosure statement to the secretary of state within
seventy-two hours.

1 B. A state agency head, an official whose
2 appointment to a board or commission is subject to
3 confirmation by the senate or a member of the insurance
4 nominating committee shall file with the secretary of state a
5 financial disclosure statement within thirty days of
6 appointment and during the month of January every year
7 thereafter that the person holds public office.

8 C. The financial disclosure statement shall
9 include for any person identified in Subsection A or B of
10 this section and the person's spouse the following
11 information for the prior calendar year:

12 (1) the full name, mailing address and
13 residence address of each person covered in the disclosure
14 statement, except the address of the spouse need not be
15 disclosed; the name and address of the person's and spouse's
16 employer and the title or position held; and a brief
17 description of the nature of the business or occupation;

18 (2) all sources of gross income of more than
19 five thousand dollars (\$5,000) to each person covered in the
20 disclosure statement, identified by general category
21 descriptions that disclose the nature of the income source,
22 in the following broad categories: law practice or
23 consulting operation or similar business, finance and
24 banking, farming and ranching, medicine and health care,
25 insurance (as a business and not as payment on an insurance
claim), oil and gas, transportation, utilities, general stock
market holdings, bonds, government, education, manufacturing,

1 real estate, consumer goods sales with a general description
2 of the consumer goods and the category "other", with
3 direction that the income source be similarly described. In
4 describing a law practice, consulting operation or similar
5 business of the person or spouse, the major areas of
6 specialization or income sources shall be described, and if
7 the spouse or a person in the reporting person's or spouse's
8 law firm, consulting operation or similar business is or was
9 during the reporting calendar year or the prior calendar year
10 a registered lobbyist under the Lobbyist Regulation Act, the
11 names and addresses of all clients represented for lobbying
12 purposes during those two years shall be disclosed;

13 (3) a general description of the type of
14 real estate owned in New Mexico, other than a personal
15 residence, and the county where it is located;

16 (4) all other New Mexico business interests
17 not otherwise listed of ten thousand dollars (\$10,000) or
18 more in a New Mexico business or entity, including any
19 position held and a general statement of purpose of the
20 business or entity;

21 (5) all memberships held by the reporting
22 individual and the individual's spouse on boards of
23 for-profit businesses in New Mexico;

24 (6) all New Mexico professional licenses
25 held;

(7) each state agency that was sold goods or
services in excess of five thousand dollars (\$5,000) during

1 the prior calendar year by a person covered in the disclosure
2 statement;

3 (8) each state agency, other than a court,
4 before which a person covered in the disclosure statement
5 represented or assisted clients in the course of the person's
6 employment during the prior calendar year; and

7 (9) a general category that allows the
8 person filing the disclosure statement to provide whatever
9 other financial interest or additional information the person
10 believes should be noted to describe potential areas of
11 interest that should be disclosed.

12 D. A complete financial disclosure statement shall
13 be filed every year. The secretary of state shall mail each
14 elected official required to file a financial disclosure
15 statement a copy of any statement the person filed the
16 previous year.

17 E. The financial disclosure statements filed
18 pursuant to this section are public records open to public
19 inspection during regular office hours and shall be retained
20 by the state for five years from the date of filing.

21 F. A person who files a financial disclosure
22 statement may file an amended statement at any time to
23 reflect significant changed circumstances that occurred since
24 the last statement was filed.

25 G. A candidate for a legislative or statewide
office who fails or refuses to file a financial disclosure
statement required by this section before the final date for

1 the withdrawal of candidates provided for in the Election
2 Code shall not have the candidate's name printed on the
3 election ballot.

4 H. For a state agency head, an official whose
5 appointment to a board or commission is subject to
6 confirmation by the senate or a member of the insurance
7 nominating committee, the filing of the financial disclosure
8 statement required by this section is a condition of entering
9 upon and continuing in state employment or holding an
10 appointed position."

11 SECTION 2. Section 41-4-3 NMSA 1978 (being Laws 1976,
12 Chapter 58, Section 3, as amended) is amended to read:

13 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

14 A. "board" means the risk management advisory
15 board;

16 B. "governmental entity" means the state or any
17 local public body as defined in Subsections C and H of this
18 section;

19 C. "local public body" means all political
20 subdivisions of the state and their agencies,
21 instrumentalities and institutions and all water and natural
22 gas associations organized pursuant to Chapter 3, Article 28
23 NMSA 1978;

24 D. "law enforcement officer" means a full-time
25 salaried public employee of a governmental entity, or a
certified part-time salaried police officer employed by a
governmental entity, whose principal duties under law are to

1 hold in custody any person accused of a criminal offense, to
2 maintain public order or to make arrests for crimes, or
3 members of the national guard when called to active duty by
4 the governor;

5 E. "maintenance" does not include:

6 (1) conduct involved in the issuance of a
7 permit, driver's license or other official authorization to
8 use the roads or highways of the state in a particular
9 manner; or

10 (2) an activity or event relating to a
11 public building or public housing project that was not
12 foreseeable;

13 F. "public employee" means an officer, employee or
14 servant of a governmental entity, excluding independent
15 contractors except for individuals defined in Paragraphs (7),
16 (8), (10), (14) and (17) of this subsection, or of a
17 corporation organized pursuant to the Educational Assistance
18 Act, the Small Business Investment Act or the Mortgage
19 Finance Authority Act or a licensed health care provider, who
20 has no medical liability insurance, providing voluntary
21 services as defined in Paragraph (16) of this subsection and
22 including:

23 (1) elected or appointed officials;

24 (2) law enforcement officers;

25 (3) persons acting on behalf or in service
of a governmental entity in any official capacity, whether
with or without compensation;

1 (4) licensed foster parents providing care
2 for children in the custody of the human services department,
3 corrections department or department of health, but not
4 including foster parents certified by a licensed child
5 placement agency;

6 (5) members of state or local selection
7 panels established pursuant to the Adult Community
8 Corrections Act;

9 (6) members of state or local selection
10 panels established pursuant to the Juvenile Community
11 Corrections Act;

12 (7) licensed medical, psychological or
13 dental arts practitioners providing services to the
14 corrections department pursuant to contract;

15 (8) members of the board of directors of the
16 New Mexico medical insurance pool;

17 (9) individuals who are members of medical
18 review boards, committees or panels established by the
19 educational retirement board or the retirement board of the
20 public employees retirement association;

21 (10) licensed medical, psychological or
22 dental arts practitioners providing services to the children,
23 youth and families department pursuant to contract;

24 (11) members of the board of directors of
25 the New Mexico educational assistance foundation;

(12) members of the board of directors of
the New Mexico student loan guarantee corporation;

1 (13) members of the New Mexico mortgage
2 finance authority;

3 (14) volunteers, employees and board members
4 of court-appointed special advocate programs;

5 (15) members of the board of directors of
6 the small business investment corporation;

7 (16) health care providers licensed in
8 New Mexico who render voluntary health care services without
9 compensation in accordance with rules promulgated by the
10 secretary of health. The rules shall include requirements
11 for the types of locations at which the services are
12 rendered, the allowed scope of practice and measures to
13 ensure quality of care;

14 (17) an individual while participating in
15 the state's adaptive driving program and only while using a
16 special-use state vehicle for evaluation and training
17 purposes in that program;

18 (18) the staff and members of the board of
19 directors of the New Mexico health insurance exchange
20 established pursuant to the New Mexico Health Insurance
21 Exchange Act; and

22 (19) members of the insurance nominating
23 committee;

24 G. "scope of duty" means performing any duties
25 that a public employee is requested, required or authorized
to perform by the governmental entity, regardless of the time
and place of performance; and

1 H. "state" or "state agency" means the state of
2 New Mexico or any of its branches, agencies, departments,
3 boards, instrumentalities or institutions."

4 SECTION 3. Section 59A-2-2 NMSA 1978 (being Laws 1984,
5 Chapter 127, Section 20, as amended) is amended to read:

6 "59A-2-2. SUPERINTENDENT--APPOINTMENT--TERM--
7 COMPENSATION--REMOVAL.--

8 A. The position of superintendent of insurance
9 shall be the chief officer of the office of superintendent of
10 insurance.

11 B. The superintendent shall be appointed by the
12 insurance nominating committee.

13 C. The superintendent shall serve for a term of
14 four years, except that the initial term beginning July 1,
15 2013 shall end on December 31, 2015. If the position of
16 superintendent becomes vacant, the successor shall serve for
17 the remainder of the term. An incumbent superintendent may
18 apply to the insurance nominating committee for appointment
19 to additional terms.

20 D. The superintendent's annual compensation shall
21 be subject to legislative appropriation and established by
22 the insurance nominating committee at the start of each term
23 and annually thereafter. The superintendent's annual
24 compensation shall be no lower than that of the lowest-
25 compensated cabinet secretary and no higher than that of the
highest-compensated cabinet secretary.

E. The superintendent shall not be removed except

1 for incompetence, willful neglect of duty or malfeasance in
2 office. The insurance nominating committee may remove the
3 superintendent after providing the superintendent with notice
4 and a hearing."

5 SECTION 4. Section 59A-2-2.1 NMSA 1978 (being Laws
6 2013, Chapter 74, Section 15) is amended to read:

7 "59A-2-2.1. INSURANCE NOMINATING COMMITTEE--DUTIES--
8 ADMINISTRATIVE ATTACHMENT.--

9 A. The "insurance nominating committee" is created
10 and consists of nine members, including:

11 (1) four members who are selected by the
12 New Mexico legislative council as follows:

13 (a) two members who shall represent the
14 interests of the insurance industry;

15 (b) two members who shall represent the
16 interests of insurance consumers and who have experience
17 advocating on behalf of consumers or the public interest on
18 insurance issues. These consumer members shall not be
19 employed by or on behalf of or have a contract with an
20 employer that is regulated by the office of superintendent of
21 insurance; and

22 (c) no more than two of the four
23 members shall be from the same political party;

24 (2) four members who are selected by the
25 governor as follows:

(a) two members who shall represent the
interests of the insurance industry;

1 (b) two members who shall represent the
2 interests of insurance consumers and who have experience
3 advocating on behalf of consumers or the public interest on
4 insurance issues. These consumer members shall not be
5 employed by or on behalf of or have a contract with an
6 employer that is regulated by the office of superintendent of
7 insurance; and

8 (c) no more than two of the four
9 members shall be from the same political party; and

10 (3) a ninth member who shall be chair of the
11 committee and who shall be selected by a majority of the
12 other eight members; provided that the member shall:

13 (a) not be a candidate for the position
14 of superintendent of insurance; and

15 (b) be either a former New Mexico
16 superintendent of insurance or another person with extensive
17 knowledge of insurance regulation in New Mexico, but does not
18 have, nor have a spouse or child who has, any direct
19 financial interest in an insurer, insurance agency or
20 insurance transaction except as a policyholder or a claimant
21 under a policy or as an owner of less than one percent of the
22 shares of an insurer that is a publicly traded corporation.

23 B. A vacancy on the committee shall be filled by
24 the original appointing authority for the remainder of the
25 term.

C. A committee member shall:

(1) be a resident of New Mexico;

1 (2) serve a four-year term; except that a
2 member of the first committee appointed shall serve for a
3 term that ends on June 30, 2015; and

4 (3) serve without compensation, but shall be
5 eligible to receive per diem and mileage pursuant to the
6 Per Diem and Mileage Act.

7 D. The committee is subject to the Inspection of
8 Public Records Act and the Open Meetings Act. Individual
9 members of the committee are subject to the Governmental
10 Conduct Act and the Financial Disclosure Act.

11 E. The committee shall convene within ninety days
12 prior to the date on which the term of a superintendent ends
13 and shall appoint a superintendent within sixty days of
14 convening.

15 F. Upon the occurrence of a vacancy in the
16 superintendent position, the committee shall convene within
17 thirty days of the date of the vacancy and shall appoint a
18 successor to fill the remainder of the superintendent's term
19 within sixty days of convening.

20 G. The committee shall actively solicit, accept
21 and evaluate applications from qualified individuals for the
22 position of superintendent and may require an applicant to
23 submit any information it deems relevant to the consideration
24 of the individual's application.

25 H. The committee shall appoint the superintendent
by a vote of a majority of all members of the committee.

I. The committee shall meet no less often than

1 annually.

2 J. The committee is administratively attached to
3 the office of superintendent of insurance. The office of
4 superintendent of insurance shall provide staff for the
5 committee.

6 K. An employee of the office of superintendent of
7 insurance who serves as staff for the committee shall not
8 reveal to any person, except another committee staff person,
9 any requests or statements disclosed in confidence by a
10 committee member, except that this restriction shall not
11 apply to any disclosure that is:

12 (1) protected under the Whistleblower
13 Protection Act; or

14 (2) required by law."

15 SECTION 5. Section 59A-2-3 NMSA 1978 (being Laws 1984,
16 Chapter 127, Section 21, as amended) is amended to read:

17 "59A-2-3. SUPERINTENDENT--QUALIFICATIONS AND BOND.--The
18 superintendent shall:

19 A. be a resident of New Mexico at the time of
20 appointment;

21 B. be bonded as provided in the Surety Bond Act;

22 C. not have a direct financial interest in an
23 insurer, insurance agency or insurance transaction except as
24 a policyholder or a claimant under a policy or as an owner of
25 less than one percent of the shares of an insurer that is a
publicly traded corporation; and

D. not have a spouse who:

