

## CHAPTER 2 Legislative Branch

### ARTICLE 1 Members of Legislature

#### 2-1-1. [Resignation of members.]

Any member of the legislature of the state of New Mexico may resign his office by filing a written statement of such resignation with the secretary of state of New Mexico, and upon the filing of such resignation, the office of senator or representative filled by the person so resigning shall become vacant.

**History:** Laws 1919, ch. 22, § 1; C.S. 1929, § 134-101; 1941 Comp., § 2-101; 1953 Comp., § 2-1-1.

#### ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Cross references.** — For organization of legislature, see N.M. Const., art. IV.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States § 43.

#### 2-1-2. [Power of officers to administer oaths to witnesses.]

The presiding officer of the senate, the speaker of the house of representatives, or the chairman of any committee of either house, or the chairman of any joint committee of both houses of the legislature, shall have power to administer an oath to any witness who may appear to testify at any investigation being had by either of said houses of the legislature, or any committee or joint committee thereof.

**History:** Laws 1912, ch. 1, § 1; Code 1915, § 1660; C.S. 1929, § 35-2605; 1941 Comp., § 2-103; 1953 Comp., § 2-1-3.

#### ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Cross references.** — For powers of legislature, see N.M. Const., art. IV.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies §§ 48, 49.

81A C.J.S. States § 57.

### **2-1-3. Compensation as state officer or employee other than that received as a legislator prohibited.**

It is unlawful for any member of the legislature to receive any compensation for services performed as an officer or employee of the state, except such compensation and expense money as he is entitled to receive as a member of the legislature.

**History:** 1941 Comp., § 2-104; Laws 1943, ch. 18, § 1; 1953 Comp., § 2-1-4; Laws 1977, ch. 336, § 2.

#### **ANNOTATIONS**

**Cross references.** — For person holding governmental office ineligible to serve in legislature, see N.M. Const., art. IV, § 3.

**Public school teachers and administrators.** — In enacting this section and 2-1-4 NMSA 1978, the legislature did not intend to prohibit school teachers or administrators from being state legislators while employed by a school district. *State ex rel. Stratton v. Roswell Indep. Schs.*, 1991-NMCA-013, 111 N.M. 495, 806 P.2d 1085 (Ct. App. 1991).

**"Member of legislature".** — A person who has been elected to the legislature, but who has not qualified, is not a member of that body for purposes of the constitutional prohibition against being appointed to any other civil office. 1961-62 Op. Att'y Gen. No. 62-145.

A person who was elected to the New Mexico legislature for the first time at the general election in November of 1962 is not a member of the legislature prior to being seated at the session to be convened in January, 1963. 1961-62 Op. Att'y Gen. No. 62-145.

**"Service performed as an officer"** within the meaning of this section is that which would be performed by one occupying a "civil office" within the meaning of N.M. Const., art. IV, § 28. 1957-58 Op. Att'y Gen. No. 57-40.

**Section only pertains to legislators who are officers or employees of the state** as such. 1957-58 Op. Att'y Gen. No. 57-11.

**State employment by legislator resigning during term.** — A state legislator can resign from the legislature and legally obtain state employment during the term for which he was elected. 1977 Op. Att'y Gen. No. 77-25.

**County or municipal employment.** — A state representative working as a county employee is not an employee paid out of state funds, or, when working as a municipal employee, is not an employee paid out of state funds. The source of payment of salary alone is not the sole test; the duties, both as a county employee and as a municipal employee, would be purely local in character. 1957-58 Op. Att'y Gen. No. 57-93.

**Legislator elected to local school board.** — A member of the state legislature is not precluded by state law from serving as an elected local school board member. 1991 Op. Att'y Gen. No. 91-02.

**Public school instructors and administrators** are state employees within the constraints of the prohibition against serving in the legislature while receiving compensation as an employee of the state. 1988 Op. Att'y Gen. No. 88-20, but see *State ex rel. Stratton v. Roswell Indep. Schs.*, 1991-NMCA-013, 111 N.M. 495, 806 P.2d 1085 (Ct. App. 1991), which held to the contrary.

**Applicability to employees of state university.** — The decision of the court of appeals in *State ex rel. Stratton v. Roswell Indep. Schs.*, 1991-NMCA-013, 111 N.M. 495, 806 P.2d 1085 (Ct. App. 1991), that public school teachers and administrators are not state employees within the meaning of this section and 2-1-4 NMSA 1978, does not alter the prohibition under these sections against a person simultaneously serving in the state legislature and as an employee of a state educational institution such as the University of New Mexico. 1991 Op. Att'y Gen. No. 91-05.

**University employee running for legislative seat.** — Employees of the University of New Mexico are not barred statutorily from running for legislative seats, but, if elected to the state legislature, they may not simultaneously serve as members of the legislature and as paid university employees. 1990 Op. Att'y Gen. No. 90-21.

**Attorney retained on a fee basis is an employee of state** under this section and would be prohibited from receiving compensation, except the compensation and expense money to which he is entitled as a legislator. 1945-46 Op. Att'y Gen. No. 45-4710.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies § 58.

Right to salary of one illegally elected or appointed to legislature, 7 A.L.R. 1682.

Incompatibility, under common-law doctrine, of office of state legislator and position or post in local political subdivision, 89 A.L.R.2d 632.

81A C.J.S. States § 46.

**2-1-4. Payment of other compensation to legislator for acting as officer or employee of state prohibited.**

It is unlawful for any officer of the state of New Mexico to pay to any member of the legislature compensation for services rendered the state of New Mexico as an officer or employee thereof except such compensation and expense money which such member is entitled to receive as a member of the legislature.

**History:** 1941 Comp., § 2-105; Laws 1943, ch. 18, § 2; 1953 Comp., § 2-1-5; Laws 1977, ch. 336, § 3.

## ANNOTATIONS

**Public school teachers and administrators.** — In enacting this section and 2-1-3 NMSA 1978, the legislature did not intend to prohibit school teachers or administrators from being state legislators while employed by a school district. *State ex rel. Stratton v. Roswell Indep. Schs.*, 1991-NMCA-013, 111 N.M. 495, 806 P.2d 1085 (Ct. App. 1991).

**Section only pertains to legislators who are officers** or employees of the state as such. 1957-58 Op. Att'y Gen. No. 57-11.

**Resignation as state legislator.** — A state legislator can resign from the legislature and legally obtain state employment during the term for which he was elected. 1977 Op. Att'y Gen. No. 77-25.

**Not applicable to employees of county or municipality.** — A state representative working as a county employee is not an employee paid out of state funds, or, when working as a municipal employee, is not an employee paid out of state funds. The source of payment of salary alone is not the sole test; the duties, both as a county employee and as a municipal employee, would be purely local in character. 1957-58 Op. Att'y Gen. No. 57-93.

**Legislator elected to local school board.** — A member of the state legislature is not precluded by state law from serving as an elected local school board member. 1991 Op. Att'y Gen. No. 91-02.

**Public school instructors and administrators** are state employees within the constraints of the prohibition against serving in the legislature while receiving compensation as an employee of the state. 1988 Op. Att'y Gen. No. 88-20, but see *State ex rel. Stratton v. Roswell Indep. Schs.*, 1991-NMCA-013, 111 N.M. 495, 806 P.2d 1085 (Ct. App. 1991), which held to the contrary.

**Applicability to employees of state university.** — The decision of the court of appeals in *State ex rel. Stratton v. Roswell Indep. Schs.*, 1991-NMCA-013, 111 N.M. 495, 806 P.2d 1085 (Ct. App. 1991), that public school teachers and administrators are not state employees within the meaning of 2-1-3 NMSA 1978 and this section does not alter the prohibition under these sections against a person simultaneously serving in the state legislature and as an employee of a state educational institution such as the university of New Mexico. 1991 Op. Att'y Gen. No. 91-05.

**University employee elected to legislative seat.** — Employees of the university of New Mexico are not barred statutorily from running for legislative seats, but, if elected to the state legislature, they may not simultaneously serve as members of the legislature and as paid university employees. 1990 Op. Att'y Gen. No. 90-21.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States §§ 46, 47, 106.

### **2-1-5. [Penalty for violation of 2-1-3 or 2-1-4 NMSA 1978.]**

Any person violating the provisions of either of the two preceding sections [2-1-3 or 2-1-4 NMSA 1978] shall be guilty of a felony and upon conviction shall be punished by a fine of not less than one thousand dollars (\$1,000.00) nor more than twenty-five hundred dollars (\$2,500.00) or by imprisonment in the state penitentiary for not less than one (1) year nor more than five (5) years or both, such fine and imprisonment in the discretion of the court.

**History:** 1941 Comp., § 2-106, enacted by Laws 1943, ch. 18, § 3; 1953 Comp., § 2-1-6.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

### **2-1-6. [Restraining unlawful payments; jurisdiction; rules and procedure.]**

That any citizen of the state of New Mexico may file suit in the district court of the county wherein such citizen resides for an injunction to restrain any member of the legislature from receiving or any officer from paying any compensation in violation of this act [2-1-3 through 2-1-6 NMSA 1978]; and jurisdiction is hereby conferred upon the various district courts of this state to grant injunctive relief. The rules and law of procedure applicable generally to civil actions for injunctive relief shall apply to such actions.

**History:** 1941 Comp., § 2-107, enacted by Laws 1943, ch. 18, § 4; 1953 Comp., § 2-1-7.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Cross references.** — For rule of procedure relating to injunctions, see Rule 1-066 NMRA.

## **2-1-7. Emoluments; increase prohibited.**

No law increasing the emoluments for any civil office in the state enacted by the legislature shall be construed to apply or become effective as to any member of the legislature appointed to such office, until one year after expiration of the term for which such person was elected and served if such law was enacted during such term.

**History:** 1953 Comp., § 2-1-7.1, enacted by Laws 1977, ch. 336, § 1.

## **2-1-8. Session per diem and mileage of members.**

Each member of the legislature shall receive per diem at the internal revenue service maximum federal per diem rate for the city of Santa Fe for each day's attendance during each session of the legislature and the internal revenue service standard mileage rate for each mile traveled in going to and returning from the seat of government by the usual traveled route, once each session as defined by Article 4, Section 5 of the constitution of New Mexico.

**History:** 1953 Comp., § 2-1-8, enacted by Laws 1955, ch. 2, § 1; 1972, ch. 1, § 3; 1975, ch. 1, § 10; 1983, ch. 1, § 10; 1997, ch. 154, § 1.

### **ANNOTATIONS**

**Cross references.** — For authorization of per diem and mileage payments as sole compensation for members of legislature, see N.M. Const., art. IV, § 10.

For inapplicability of the Per Diem and Mileage Act to legislators unless specifically made applicable, see 10-8-6 NMSA 1978.

**The 1997 amendment,** effective June 20, 1997, rewrote the section to substitute the internal revenue service per diem rate for specific dollar amounts.

**Legislative intent.** — Payments under this section and 2-1-9 NMSA 1978 are not intended to enrich legislators but only to cover travel expenses. *State ex rel. Udall v. Pub. Employees Ret. Bd.*, 1994-NMCA-094, 118 N.M. 507, 882 P.2d 548 (Ct. App. 1994), rev'd on other grounds, 120 N.M. 786, 907 P.2d 190 (1995).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies § 58.

Per diem compensation of members and officers of legislature, 1 A.L.R. 276.

81A C.J.S. States § 47.

## **2-1-9. Out-of-state travel; in-state travel.**

A. Out-of-state travel of members, officers and employees of the legislative branch of government shall be exempt from approval by any member of the executive branch.

B. Members of the legislature serving on official business for interim committees within the state shall receive:

(1) per diem at the internal revenue service per diem rate as provided in Section 2-1-8 NMSA 1978 for each day served, including travel time, and the cost of public transportation by the shortest, most direct route or mileage for each mile traveled by the shortest, most direct route by automobiles at the internal revenue service standard mileage rate or by privately owned aircraft at the air mileage rate set out by the rules adopted by the department of finance and administration pursuant to the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978]; and

(2) per diem for one additional day at the internal revenue service per diem rate as provided in Section 2-1-8 NMSA 1978 if, in order to serve on official business for an interim committee, a legislator travels to a location that is one hundred or more miles from the location of the legislator's point of departure; provided that, pursuant to policies adopted by the New Mexico legislative council, per diem under this paragraph shall be paid only if the legislator is not entitled to per diem for travel time as provided in Paragraph (1) of this subsection.

C. Reimbursement for out-of-state travel on committee business shall be as follows:

(1) the cost of the tickets on public transportation by the shortest, most direct route and the cost of airport parking; or

(2) mileage at the same rates established for in-state travel if automobiles or private airplanes are used, based on official mileage by the shortest, most direct route; and

(3) per diem for the number of days spent in travel and on committee business at the in-state rate provided for in Section 2-1-8 NMSA 1978; and

(4) in no event, however, shall the reimbursement for out-of-state travel exceed the dollar amount that would be due if the member had used first class public air transportation by the shortest, most direct route.

**History:** 1953 Comp., § 2-1-8.1, enacted by Laws 1971, ch. 1, § 11; 1972, ch. 1, § 10; 1975, ch. 208, § 1; 1983, ch. 1, § 11; 1997, ch. 154, § 2; 2000, ch. 66, § 1; 2005, ch. 100, § 1.

## ANNOTATIONS

**Cross references.** — For constitutional limitations on per diem and mileage payments to members of the legislature, see N.M. Const., art. IV, § 10.

**The 2005 amendment**, effective June 17, 2005, added Subsection B(2) providing that legislators who travel one hundred or more miles to serve on an interim committee shall receive additional per diem for one additional day.

**The 2000 amendment**, effective March 6, 2000, in Subsection B, inserted "within the state" following "interim committees" and deleted "privately owned" preceding "automobiles"; inserted "and the cost of airport parking" in Subsection C(1); in Subsection C(2), deleted "private" preceding "automobiles" and inserted "private" preceding "airplanes"; and inserted "at the in-state rate provided for in Section 2-1-8 NMSA 1978" in Subsection C(3).

**The 1997 amendment**, effective June 20, 1997, rewrote the section to substitute internal revenue service per diem rates for specific dollar amounts.

**Legislative intent.** — Payments under this section and 2-1-8 NMSA 1978 are not intended to enrich legislators but only to cover travel expenses. State ex rel. Udall v. Pub. Employees Ret. Bd., 1994-NMCA-094, 118 N.M. 507, 882 P.2d 548 (Ct. App. 1994), rev'd on other grounds, 120 N.M. 786, 907 P.2d 190 (1995).

**Applicability of section.** — The legislature intended this section to govern reimbursements to members of the legislative education study committee, the legislative council and the legislative finance committee. 1979 Op. Att'y Gen. No. 79-40.

## **2-1-10. Legislative subpoenas; form; issuance; penalty.**

A. During any regular or special session of the legislature upon request of a standing committee of either house of the legislature and approval by a majority vote of the elected members of the house of which such committee is a part, the presiding officer of the senate or the speaker of the house of representatives shall issue subpoenas to compel the attendance of any witnesses or command the person to whom directed to produce any books, papers, documents or tangible items designated therein, at any investigation or hearing before the body issuing the subpoena.

B. Every subpoena shall be issued by the duly authorized legislative officer, under the name of the house or senate, and shall command each person to whom it is directed to attend and give testimony, or to produce documents or other designated articles at a time and place therein specified. Service of process may be made by any person designated by the officer issuing the subpoena.

C. Witnesses who may be subpoenaed to appear before any body of the legislature, or to produce any designated books, papers, documents or tangible items shall receive as compensation the sum of five dollars (\$5.00) a day for each day they are in actual attendance in obedience to the subpoena, and eight cents (\$.08) for each mile actually and necessarily traveled in coming to or going from the place of examination, but nothing shall be paid for traveling expenses when the witnesses have been subpoenaed at the place of examination.

D. Any person who shall refuse or neglect to comply with a subpoena, duly issued by the proper officer of the legislature, shall upon conviction be guilty of contempt of the legislature, and punished by a fine of not more than five hundred dollars (\$500) or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment in the discretion of the judge.

**History:** 1953 Comp., § 2-1-9, enacted by Laws 1959, ch. 200, § 1.

### ANNOTATIONS

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies § 50 et seq.

Formalities and requisites of the creation of legislative committees, 28 A.L.R. 1154.

Power of legislative body or committee to compel attendance of nonmember as witness, 50 A.L.R. 21, 65 A.L.R. 1518.

Immunity from criminal prosecution granted to witnesses summoned before legislative committee, 87 A.L.R. 435.

Subpoena duces tecum in proceeding before legislative committee, testing validity or scope of command of, 130 A.L.R. 327.

Injunction against legislative body of state or municipality, 140 A.L.R. 439.

81 C.J.S. States §§ 56 to 60.

### **2-1-11. [Legislative salary review committee; composition; duties.]**

There is continued a legislative salary review committee composed of the speaker of the house of representatives, the president pro tempore of the senate, the chairman of the house appropriations and finance committee, the chairman of the senate finance committee and the chairmen of all respective permanent interim committees. The legislative salary review committee shall review the salary schedules of the employees of all interim legislative committees and make recommendations regarding equitable salary structures.

**History:** 1953 Comp., § 2-1-10, enacted by Laws 1971, ch. 1, § 10.

### ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Cross references.** — For legislative committee meetings open to public, see 10-15-2 NMSA 1978.

## **ARTICLE 2**

### **Advance Copies of New Acts**

#### **2-2-1. [Advance certified copies of enactments.]**

That upon approval by the governor of the state of New Mexico of any act passed by the legislature the secretary of state shall forthwith cause to be printed typewritten or multigraphed copies of such act and immediately shall after having certified same, as true copies, transmit one such copy to each county clerk of the state.

**History:** Laws 1927, ch. 122, § 1; C.S. 1929, § 138-301; 1941 Comp., § 2-201; 1953 Comp., § 2-2-1.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Compiler's notes.** — The title of Laws 1927, ch. 122, provided for the transmittal by the secretary of state to the clerk of the district court, but this section provides for transmittal to the county clerk.

**Cross references.** — For distribution of statutes, see 12-1-4 NMSA 1978.

#### **2-2-2. [Preservation as part of public records.]**

The clerk in each county of the state shall provide a suitable binder and upon receipt from the secretary of state of a printed copy of any such law shall insert such copy in said binder and preserve the file as a part of the public records of his office for the inspection of public officers and parties interested, as other public records.

Provided, that after the receipt by such clerk of the bound volume of the session laws containing the same laws theretofore filed in the binder the contents of said binder may be removed and destroyed.

Provided further, that this act [2-2-1, 2-2-2 NMSA 1978] shall not apply to acts not carrying the emergency clause, nor to the act known as the Conservancy Act of New Mexico [73-14-1 NMSA 1978].

Provided further, that the chief clerk of the senate shall deliver to the secretary of state sufficient printed copies of the 1927 Election Code to be completed and certified by the secretary of state for transmission as aforesaid.

Provided further, that the secretary of state shall prepare, as herein provided, and transmit copies of road bills to clerks of such counties only as are affected thereby.

**History:** Laws 1927, ch. 122, § 2; C.S. 1929, § 138-302; 1941 Comp., § 2-202; 1953 Comp., § 2-2-2.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Compiler's notes.** — The 1927 Election Code was compiled as 3-1-1 et seq., 1953 Comp., and was repealed by Laws 1969, ch. 240, § 451. For present Election Code, see Chapter 1 NMSA 1978.

## ARTICLE 3 Legislative Council

### 2-3-1. New Mexico legislative council created.

There is created a legislative joint committee of the house and senate to be designated "the New Mexico legislative council," composed of sixteen members, eight from the house and eight from the senate. The president pro tempore and the minority floor leader of the senate and the speaker of the house of representatives and the minority floor leader of the house shall automatically be members of the council. Six of the remaining members shall be appointed from the house of representatives by the speaker; provided that, if the minority is entitled to more than one member, the additional minority members shall be appointed by the speaker only from recommendations made by the minority floor leader, although the speaker shall retain the right to reject any such recommendations; and six of the remaining members shall be appointed from the senate by the committees' committee or, if the appointments are made in the interim, by the president pro tempore after consultation with and agreement of a majority of the members of the committees' committee. If the minority is entitled to more than one member, one of the remaining six members shall be appointed by the senate minority floor leader. The appointed members of the council shall be appointed from each house so as to give the two political parties having the most members in each house the same total proportionate representation on the council as prevails in that house; providing [provided] that in the computation, major fractions shall be counted as whole numbers, and in no event shall either of the two major parties have less than one member from each house. The members shall be appointed for terms of two years or less expiring on the first day of the regular session held in odd-numbered years. The term of any member shall terminate when such member ceases to be a member of the legislature. Provided, however, that members of the council reelected to the legislature shall continue to serve as members of the council until their successors are appointed. Vacancies on the council may be filled for the unexpired term by

appointment from the house or senate respectively by the respective appointing authority which makes the original appointments and subject to the same recommendations; provided such new members must be from the same body of the legislature and the same party from which their predecessors were appointed. The council shall elect such other officers as may be deemed necessary from among its own members. The officers shall be elected for terms coterminous with their membership on the council. The speaker and the president pro tempore shall be co-chairmen of the council. No action shall be taken by the council if a majority of the total membership from either house on the council rejects such action. This 1978 amendment shall not be construed to cut short the term of any member already appointed to the council.

**History:** 1941 Comp., § 2-401, enacted by Laws 1951, ch. 182, § 1; 1953 Comp., § 2-3-1; Laws 1955, ch. 286, § 1; 1957, ch. 72, § 1; 1978, ch. 21, § 10.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Cross references.** — For workers' compensation oversight committee, see Chapter 52, Article 7 NMSA 1978.

**Computing party membership.** — This section requires that total council membership from each house be used in computing proportionate party membership in the legislative council. 1969 Op. Att'y Gen. No. 69-26.

The speaker of the house and the president pro tempore of the senate must be included in computing party membership from their respective houses for purposes of this section. 1969 Op. Att'y Gen. No. 69-26.

**Agreements or contracts entered into in past by the capitol buildings improvement commission** in connection with buildings covered by 2-3-5 NMSA 1978 are binding on the legislative council and must be enforced by the legislative council service. 1967 Op. Att'y Gen. No. 67-60.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies §§ 50 to 54, 57.

Formalities and requirements for the creation of legislative committees, 28 A.L.R. 1154.

81A C.J.S. States § 55.

### **2-3-2. Legislative council service created.**

There hereby is created a legislative council service for the use of the members of the legislature, the governor and the various departments, institutions and agencies of

this state that may desire to avail themselves of its services. Notwithstanding the availability of the legislative council service to the various departments, institutions and agencies of this state, it is a part of the legislative branch of the government, and shall conduct itself with strict regard to the division of powers among the legislative, executive and judicial branches of the government of this state. Such legislative council service shall assist and cooperate with the legislative council and with any interim legislative committee or commission created by the legislature or appointed by the governor at their request.

**History:** 1941 Comp., § 2-402, enacted by Laws 1951, ch. 182, § 2; 1953 Comp., § 2-3-2; Laws 1955, ch. 286, § 2.

## ANNOTATIONS

**Compiler's notes.** — Laws 2009, ch. 114, §§ 6 & 7, effective April 6, 2009, provided that one million dollars of the unexpended balance of the appropriations to the legislative council service in Laws 2007, ch. 192, § 1 for the purpose of constructing and renovating capital north and the capitol, and as reauthorized for an expanded purpose in Laws 2008, ch. 83, § 381, may be expended by the legislative council service in fiscal years 2009 through 2012 for the capitol buildings planning commission master planning process for statewide state facilities, including the completion of the parking structure in the central capitol campus in Santa Fe.

### **2-3-3. Legislative council; powers; duties.**

It shall be the duty of the legislative council:

A. to adopt rules and regulations for the administration of this act in the conduct of the affairs of the council service;

B. to formulate policies for the operation and conduct of the business of the council service, and generally to supervise all of the activities of such council service;

C. to carry out the purposes of the council service as hereafter set forth;

D. to create committees of legislators to study major problems during the periods when the legislature is not in session; provided that:

(1) no member of the council shall serve as an officer or voting member on an interim committee appointed or created by the council;

(2) all committees created by the council shall terminate on or before December 1 of the year in which they are created, unless the council subsequently extends the life of the committee for not more than one month;

(3) the minority party shall be represented on all council-created committees in the proportion the minority party is represented in each house;

(4) the relationship of the size of the house and senate shall be taken into consideration in determining the number of members from each house appointed to an interim committee created by the council; and

(5) members shall be appointed to council-created committees by the same appointing authorities that appoint the council members from each house, and subject to the same recommendations. The council shall name committee officers from among the committee members so appointed;

E. to adopt rules of procedure for all committees created by the council including a rule that no action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action; provided that no member of the legislature shall ever be excluded from any meeting of any committee appointed by the council; and

F. to refrain from advocating or opposing the introduction or passage of legislation.

**History:** 1941 Comp., § 2-403, enacted by Laws 1951, ch. 182, § 3; 1953 Comp., § 2-3-3; Laws 1955, ch. 286, § 3; 1978, ch. 21, § 11.

## ANNOTATIONS

**Compiler's notes.** — The words "this act" in Subsection A refer to Laws 1951, ch. 182, which is compiled as 2-3-1 to 2-3-3, 2-3-8 and 2-3-11 to 2-3-16 NMSA 1978.

**Redistricting committee.** — Laws 2011, ch. 185, §§1 to 6, effective June 17, 2011, created a joint interim legislative redistricting committee. The committee, composed of eighteen members, functioned from the date of its appointment until January 13, 2012.

**Military and veterans' affairs committee.** — Laws 2009, ch. 116, § 1, effective June 19, 2009, created the military and veterans' affairs committee. The committee, composed of eight voting members, functioned from the date of its appointment until the second session of the forty-ninth legislature.

**Cross references.** — For duties in regard to uniformity of laws, see 2-4-2 NMSA 1978.

### **2-3-4. [Control of building housing legislature, adjacent utility plant and surrounding grounds.]**

Notwithstanding the provisions of Chapter 6, Articles 1 and 2, NMSA 1953, the exclusive control, care, custody and maintenance of the building in which the legislature is housed, the adjacent utilities plant and the surrounding grounds are transferred from

the capitol buildings improvement commission, and the capitol custodian commission, to the legislative council.

**History:** 1953 Comp., § 2-3-3.1, enacted by Laws 1967, ch. 73, § 1.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Compiler's notes.** — The provisions of Chapter 6, Articles 1 and 2, 1953 Comp., referred to in this section, are compiled as 13-4-6 to 13-4-9, 13-5-3, 13-6-1, 13-6-3, 15-3-5 to 15-3-17, 15-4-2 [repealed], 15-4-3 [repealed] and 15-5-1 [recompiled as 9-27-20] to 15-5-6 [recompiled as 9-27-25] NMSA 1978.

Sections 6-2-1 to 6-2-12, 1953 Comp., relating to the capitol buildings improvement commission, were repealed by Laws 1968, ch. 43, § 15.

Laws 1971, ch. 285, § 4, which was compiled as 6-1-9.2, 1953 Comp., before being repealed by Laws 1977, ch. 247, § 209, abolished the capitol custodian commission.

### **2-3-5. [Insurance of buildings; contracts for care and management of property; records of transactions; assignment of space in buildings.]**

The director of the legislative council service, under the direction of the legislative council, shall:

- A. insure the buildings and their contents;
- B. keep a full and complete record of all transactions;
- C. sign all contracts and other papers necessary to be signed in the care and management of the property under his control;
- D. have custody and control of all maps, deeds, plats, plans and specifications, contracts, books and other papers connected with the buildings and grounds under his control;
- E. provide for the preservation, repair, care, cleaning, heating and lighting of the buildings and improvements under his control;
- F. provide for the care and beautifying of the grounds and premises;
- G. employ the necessary employees and provide and enforce the rules and regulations for the conduct of such employees;

H. assign all space in the buildings under his control; and

I. make all rules and regulations for the conduct of all persons in and about the buildings and grounds under his control necessary and proper for the safety, care and preservation of the same.

**History:** 1953 Comp., § 2-3-3.2, enacted by Laws 1967, ch. 73, § 2.

### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

### **2-3-6. [Control of state library building and surrounding grounds.]**

Notwithstanding the provisions of Chapter 6, Article 1, NMSA 1953, the exclusive control for the care, custody and maintenance of the building in which the state library is housed, and the surrounding grounds, are [is] transferred from the capitol custodian commission to the legislative council.

**History:** 1953 Comp., § 2-3-3.3, enacted by Laws 1970, ch. 85, § 1.

### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Compiler's notes.** — The provisions of Chapter 6, Article 1, 1953 Comp., referred to in this section, are compiled as 13-4-6 to 13-4-9, 13-5-3, 13-6-1, 13-6-3, 15-3-5 to 15-3-17, 15-4-1, 15-4-3, and 15-5-1 to 15-5-6 NMSA 1978.

For abolishment of capitol custodian commission, see the compiler's note to 2-3-4 NMSA 1978.

### **2-3-7. [Insurance of building; records of transactions; contracts for care and management of property.]**

The director of the legislative council service, under the direction of the legislative council, shall:

A. insure the building and its contents, including the valuable papers, documents and books;

B. keep a full and complete record of all transactions;

C. sign all contracts and other papers necessary to be signed in the care and management of the property under his control;

D. have custody and control of all maps, deeds, plats, plans and specifications, contracts, books and other papers connected with the building and grounds under his control;

E. provide for the preservation, repair, care, cleaning, heating and cooling and lighting of the building and improvements under his control;

F. provide for the care and beautifying of the grounds and premises;

G. employ the necessary employees and provide and enforce the rules and regulations for the conduct of such employees; and

H. make all rules and regulations for the conduct of all persons in and about the building and grounds under his control necessary and proper for the safety, care and preservation of the same.

**History:** 1953 Comp., § 2-3-3.4, enacted by Laws 1970, ch. 85, § 2.

## **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

### **2-3-8. Purpose and duties of legislative council service.**

The purpose and duties of the legislative council service shall be:

A. to assist the legislature of the state of New Mexico in the proper performance of its constitutional functions by providing its members with impartial and accurate information and reports concerning the legislative problems which come before them; by providing digests showing the practices of other states and foreign nations in dealing with similar problems;

B. when so requested to secure information for and to report to the legislators of this state on the social and economic effects of statutes of this state or elsewhere by cooperating with the legislative service agencies in other states and other reference agencies and libraries;

C. to furnish to the members of the legislature of this state the assistance of expert draftsmen, qualified to aid the legislators in the preparation of bills for introduction into the legislature;

D. to recommend to the legislature measures which will improve the form and working of the statutes of this state, and clarify and reconcile their provisions;

E. to provide for the legislature adequate staff facilities and to provide the adequate expert assistance without which no legislature can properly perform its required functions;

F. to prepare and index for printing as promptly as possible after the adjournment of each session the session laws therefor, which compilation shall include all resolutions and acts which the legislature has adopted or passed during the session, and have received the approval of the governor when such approval is necessary.

**History:** 1941 Comp., § 2-404, enacted by Laws 1951, ch. 182, § 4; 1953 Comp., § 2-3-4; Laws 1955, ch. 286, § 4.

### **2-3-9. [Codification of election laws; consultation with election officials.]**

The legislative council shall instruct the legislative council service to codify all laws pertaining to elections. The codification shall be done in consultation with the secretary of state and other state and local election officials, and in such manner that conflicts or other matters requiring policy decisions and substantive revisions shall be shown in alternative provisions.

**History:** 1953 Comp., § 2-3-4.1, enacted by Laws 1967, ch. 271, § 1.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

### **2-3-10. [Review of election laws; recommendations as to re-registration of voters; improvement of purge laws; information made available to legislature.]**

After the codification with its alternative provisions is complete, the legislative council shall study the draft codification and alternate provisions, as well as any suggestions or recommendations made by election officials, and especially any substantive recommendations pertaining to statewide re-registration of voters and the improvement of the purge laws, and shall make this material available to members of the legislature.

**History:** 1953 Comp., § 2-3-4.2, enacted by Laws 1967, ch. 271, § 2.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

### **2-3-11. [Director of service; qualifications; tenure; compensation.]**

The legislative council service shall be in charge of a director appointed by the legislative council. He shall be appointed by it without reference to party affiliation, and solely on ground of fitness to perform the duties of his office. He shall be well versed in political science and in the methods of legal research and bill drafting, and, preferably, shall have legal training and shall have practical bill drafting experience. He shall hold office from the date of his appointment until such time as he be removed by majority vote of the legislative council so appointing him or of any succeeding legislative council, but in the event of any such removal, he shall be given six (6) months' notice of the termination of his appointment or shall be paid six (6) months' salary as terminal pay. He shall be paid such salary as shall be fixed by the legislative council and any necessary traveling expenses payable as salary and expenses as other state officials are paid.

**History:** 1941 Comp., § 2-405, enacted by Laws 1951, ch. 182, § 5; 1953 Comp., § 2-3-5.

### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**This section is not continuing appropriation;** a further, specific appropriation is necessary to authorize payment of public funds to pay for staff and other necessary support for interim activities of the legislature as allowed by N.M. Const., art. IV, § 30. 1985 Op. Att'y Gen. No. 85-02.

### **2-3-12. Duties of director; additional employees.**

The director of the legislative council service shall recommend to the legislative council the appointment of such technical, clerical and stenographic assistants as may be necessary to carry out the provisions of this act, and the legislative council, upon concurring in such appointments, shall fix the compensation of each employee within the appropriations made by the legislature for the use of the legislative council. Such employees shall be appointed without regard to party affiliation and solely on ground of fitness to perform the duties of the position for which they are hired. For a period commencing approximately one month prior to each session and until approximately fifteen days after the final adjournment thereof, at any regular or special session, the director may employ, subject to the approval of the legislative council, at a compensation to be fixed by the council within its budget allowance, such extra stenographic and emergency assistants, including expert legal draftsmen qualified to aid the legislators in the preparation and drafting of bills for introduction into the

legislature, as may be necessary to expeditiously handle the work of the council service immediately prior to, during and immediately after the legislative sessions.

**History:** 1941 Comp., § 2-406, enacted by Laws 1951, ch. 182, § 6; 1953 Comp., § 2-3-6; Laws 1955, ch. 286, § 5.

## ANNOTATIONS

**Compiler's notes.** — The words "this act" in the middle of the first sentence refer to Laws 1951, ch. 182, which is compiled as 2-3-1 to 2-3-3, 2-3-8 and 2-3-11 to 2-3-16 NMSA 1978.

**Cross references.** — For director serving on commission for promotion of uniformity of legislation in the United States, see 2-4-1 NMSA 1978.

For provision making director the ex-officio secretary of the commission on intergovernmental cooperation, see 11-2-1 NMSA 1978.

### **2-3-13. [Services; confidential nature.]**

Neither the director nor any employee of the council service shall reveal to any person outside of the service the contents or nature of any request or statement for service, except with the consent of the person making such request or statement. They shall not urge or oppose any legislation, nor give to any member of the legislature advice concerning the economic or social effect of any bill or proposed bill except upon the request of such member.

**History:** 1941 Comp., § 2-407, enacted by Laws 1951, ch. 182, § 7; 1953 Comp., § 2-3-7.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

### **2-3-13.1. Legislative documents; gender-neutral language; legislative council service.**

A. As used in this section:

(1) "gender-neutral" means language that does not expressly or implicitly refer to one gender to the real or apparent exclusion of the other and expressly or implicitly refers to both genders without distinguishing between them; and

(2) "gender-specific" means language that expressly or implicitly refers to one gender to the real or apparent exclusion of the other or expressly or implicitly refers to both genders and distinguishes between them.

B. Except as limited in Subsection C of this section, the legislative council service shall use gender-neutral language in drafting bills to enact, amend or revise laws and in drafting memorials, resolutions and other legislative documents; provided that gender-neutral language shall not be used if language is intended or required to be gender-specific or the intended meaning of language would otherwise be altered.

C. Whenever current laws and other published legislative documents are the subject of a legislative request to the legislative council service for amendment or revision, the legislative council service as part of its work shall replace gender-specific language with gender-neutral language where appropriate and reasonable.

History: Laws 2013, ch. 141, § 1.

## ANNOTATIONS

**Effective dates.** — Laws 2013, ch. 141 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 14, 2013, 90 days after the adjournment of the legislature.

### **2-3-14. Quarters; files and indexes; cooperation with and by other agencies; cooperation with other states.**

The legislative council and legislative council service shall be provided with adequate quarters at the state capitol where the council service will be conveniently accessible to the members of the legislature and to other persons having official business with it. The council service shall be kept open during the time provided by law for other state offices and when the legislature is in session, at such hours, day and night, as are most convenient to the legislators. It shall keep and file copies of all bills, resolutions, amendments, memorials, reports of committees, journals and other documents printed by order of either house of the legislature unless readily available elsewhere; and collect, catalog and index the same as soon as practicable after they have been printed; if appropriations are made therefor, keep an index of the action on each bill, resolution, memorial [and] amendment by each house of the legislature, by any committee of the legislature and by the governor. Such digests and indexes shall be printed and distributed at such intervals as the director may deem practicable.

The facilities of the state supreme court library, and of any other library maintained by the state, shall be available for the use of the council service, subject to the rules of such libraries. Each state department and all other state institutions shall, to a reasonable extent and upon request, furnish to the legislative council service such documents, material or information as may be requested by the members of the legislative council or by the director of the legislative council service, which are not

made confidential by law. The legislative council service shall cooperate with the legislative service agencies of other states, and shall interchange information and research material with them.

**History:** 1941 Comp., § 2-408, enacted by Laws 1951, ch. 182, § 8; 1953 Comp., § 2-3-8; Laws 1955, ch. 286, § 6.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Cross references.** — For protection of confidentiality of certain public records, see 14-2-1 NMSA 1978.

### 2-3-14.1. State agencies; reports.

A. No state agency shall submit or send to the members of the legislature any material other than proposed legislation in excess of five pages.

B. Nothing in this section shall limit the response of any agency to a direct request of a legislator or group of legislators nor the submission of the executive budget.

C. All reports to the legislature by a state agency shall be filed in duplicate with the legislative council service and such reports shall not be subject to the page limitations of this section. The service shall compile a list of the reports submitted prior to each regular legislative session since the beginning of the previous regular session, listing the title and agency, and distribute the list among the legislators during the first week of the session.

D. Any legislator may request any report, including those listed pursuant to Subsection C of this section. Upon such a request, the state agency shall furnish the report to the legislator.

E. Compliance by a state agency with Subsection C of this section shall fulfill any requirement of a state agency to report to the legislature, unless the requirement is specifically exempted from the requirements of this section.

F. No state agency shall submit material bound other than by staples unless the bulk or other qualities of the material require other bindings; provided that in all cases the most economical method of binding and packaging shall be used.

G. For the purposes of this section "state agency" means any agency, division or instrumentality of the state, but does not include political subdivisions and educational institutions or any of the legislature's divisions [divisions], instrumentalities or committees.

**History:** Laws 1985, ch. 19, § 1.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

### **2-3-15. Reimbursement.**

The director of the legislative council service and all technical, clerical and stenographic assistants shall be reimbursed as provided in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978] while on official duty in the same manner as other state employees. The members of the council and other members of the legislature approved by the council shall be reimbursed for travel on council business as provided in Section 2-1-9 NMSA 1978.

**History:** 1941 Comp., § 2-409, enacted by Laws 1951, ch. 182, § 9; 1953 Comp., § 2-3-9; Laws 1955, ch. 286, § 7; 1983, ch. 1, § 12.

#### **ANNOTATIONS**

**Cross references.** — For compensation of state employees, see 10-7-2 NMSA 1978.

**Legislature intended 2-1-9 NMSA 1978 to govern certain reimbursements** to members of the legislative education study committee, the legislative council and the legislative finance committee. 1979 Op. Att'y Gen. No. 79-40.

### **2-3-16. [Cooperation of attorney general.]**

The attorney general shall advise and consult with the legislative council and the legislative council service and render all legal services and service in the drafting of bills required when requested to do so by the said council or its representatives.

**History:** 1941 Comp., § 2-411, enacted by Laws 1951, ch. 182, § 11; 1953 Comp., § 2-3-10.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

### **2-3-17. Expenditures of funds; budgets.**

Payments from funds appropriated for the use of the legislative council and legislative council service shall be made only upon vouchers submitted to the department of finance and administration by the director of the legislative council or his

authorized representative, and by warrants signed by the secretary of finance and administration.

**History:** 1953 Comp., § 2-3-11, enacted by Laws 1955, ch. 286, § 8; 1957, ch. 72, § 2; 1977, ch. 247, § 9.

### **2-3-18. Legislative fiscal analyst transferred.**

The position of "legislative fiscal analyst" formerly existing as a joint position under the director of the legislative council and the legislative finance committee is transferred to the legislative council service. The legislative fiscal analyst shall be a staff member of the legislative council service. The legislative fiscal analyst shall assist the legislature, its various committees and individual legislators by providing, upon request, impartial and objective analysis of the fiscal problems of New Mexico's state and local government and such other financial information as may be required. The legislative fiscal analyst shall prepare and make available to all members of the legislature, upon request, quarterly reports concerning the financial condition of the state government. These reports shall contain information about revenues, expenditures and outstanding obligations of the state, and significant developments in areas affecting state finance.

The funds heretofore budgeted and appropriated for the salary and employee benefits of the legislative fiscal analyst, and his budgeted travel expense, and all files, equipment and other materials belonging to the legislative fiscal analyst are transferred with the position of the legislative fiscal analyst to the legislative council service.

Information in the files of the legislative council not made confidential by law shall be made available to the legislative finance committee upon request and information in the files of the legislative finance committee shall be available to the legislative council upon request.

**History:** 1953 Comp., § 2-3-12, enacted by Laws 1965, ch. 160, § 4.

### **ANNOTATIONS**

**Cross references.** — For confidential nature of services of the legislative council service, see 2-3-13 NMSA 1978.

For cooperation with legislative finance committee, see 2-5-7 NMSA 1978.

For confidentiality of certain public records, see 14-2-1 NMSA 1978.

## **ARTICLE 4**

### **Commission for Promotion of Uniform Legislation**

## **2-4-1. Commission for the promotion of uniformity of legislation in the United States.**

A. There is created a "commission for the promotion of uniformity of legislation in the United States", also known as the "uniform law commission". Its membership shall consist of:

(1) four members of the legislature, who are members of the state bar of New Mexico and who shall be appointed by the New Mexico legislative council, consisting of one member from each of the two major parties in the New Mexico senate and in the New Mexico house of representatives;

(2) any member of the New Mexico bar who has represented New Mexico as a member of the uniform law commission for twenty or more years and who has been elected as a life member of the uniform law commission;

(3) four members of the New Mexico bar, who shall be appointed by the New Mexico legislative council;

(4) two members of the New Mexico bar, who shall be appointed by the governor;

(5) the dean of the university of New Mexico law school or the dean's designee; and

(6) the director of the legislative council service, who shall serve ex officio.

B. The members shall be known as "uniform law commissioners" whose purpose is to promote uniformity of legislation in the United States.

History: 1953 Comp., § 2-4-1, enacted by Laws 1967, ch. 234, § 1; 1989, ch. 119, § 1; 1999, ch. 25, § 1; 2009, ch. 161, § 1.

### **ANNOTATIONS**

**The 2009 amendment**, effective July 1, 2009, in Subsection A, after "United States", added "also known as the 'uniform law commission'"; added Paragraph (2) of Subsection A; and in Paragraph (3) of Subsection A, after "legislative council", deleted "and who shall serve on the commission at their own expense"; and in Subsection B, after "members shall be known as", deleted "'commissioners for the promotion of uniformity of legislation in the United States'" and added "'uniform law commissioners' whose purpose is to promote uniformity of legislation in the United States".

**The 1999 amendment**, effective July 1, 1999, substituted "four members" for "two members" at the beginning of Subsection B.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 82 C.J.S. Statutes §§ 73, 358 to 361.

## **2-4-2. [Duties of commissioners.]**

It shall be the duty of said commissioners to examine the subjects of marriage, divorce and other subjects of legislation concerning which uniform legislation throughout the United States is desirable; to confer with like commissioners from other states concerning such matters, and to use their best efforts in bringing about such uniformity of legislation on all subjects which they deem desirable.

**History:** Laws 1917, ch. 77, § 2; C.S. 1929, § 134-1502; 1941 Comp., § 3-402; 1953 Comp., § 2-4-2.

### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

**Cross references.** — For duties of commission on intergovernmental cooperation, including formulating proposals for, and facilitation of, uniform legislation, see 11-2-2 NMSA 1978.

## **2-4-3. [Report to legislature.]**

Said commissioners shall report to the legislature from time to time, giving the result of their investigations, and making such recommendations with respect to the adoption of uniform legislation as they may deem proper.

**History:** Laws 1917, ch. 77, § 4; C.S. 1929, § 134-1504; 1941 Comp., § 3-404; 1953 Comp., § 2-4-4.

### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

## **ARTICLE 5**

### **Legislative Fiscal Control**

#### **2-5-1. Legislative finance committee created; terms; vacancies.**

A. There is created a continuing joint interim committee of the legislature to be designated the "legislative finance committee". The committee shall be composed of sixteen members, eight members from the house of representatives and eight members from the senate. The chairmen of the house appropriations and finance and house

taxation and revenue committees and the senate finance committee or members of their respective committees designated by each of them from time to time shall be members. The minority party shall be represented on the committee by at least one member from each house. Six of the remaining members shall be appointed from the house of representatives by the speaker, and the seven remaining members shall be appointed from the senate by the committees' committee or, if the appointments are made in the interim, by the president pro tempore after consultation with and agreement of a majority of the members of the committees' committee. An appointed member may designate a member of his party to serve in his place at a committee meeting at which the regular member is going to be absent if the member notifies the chairman of the legislative finance committee of his anticipated absence and his designee at least twenty-four hours before the committee meeting. The appointed members of the committee shall be appointed from each house so as to give the two political parties having the most members in each house the same total proportionate representation on the committee as prevails in that house; provided that in the computation, major fractions shall be counted as whole numbers. Minority members from the house shall be appointed by the speaker only from recommendations made by the minority floor leader, although the speaker shall retain the right to reject any such recommendations.

B. Members shall be appointed for terms of two years and shall serve from the time of their appointment until the end of the next session of the legislature. The term of any member shall terminate when the member ceases to be a member of the legislature.

C. Vacancies in the committee may be filled for the unexpired term by appointment from the house or senate respectively by the respective appointing authority that makes the original appointments and subject to the same recommendations; provided the new members shall be from the same house of the legislature and the same party from which their predecessors were appointed. The committee shall elect from its membership such other officers as may be deemed necessary. The officers shall be appointed for terms coterminous with their membership on the committee. Each office shall be alternated between the respective houses each two years. For the terms beginning in 1979, the chairman shall be a senate member and the vice chairman, if any, shall be a house member. The appointing authority of each house shall exercise its appointing authority by naming the chairman or vice chairman, respectively, on this alternating basis.

D. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects the action.

**History:** 1953 Comp., § 2-5-1, enacted by Laws 1957, ch. 3, § 1; 1978, ch. 21, § 12; 1991, ch. 73, § 1.

## **ANNOTATIONS**

**Cross references.** — For committee hearing prior to the termination of any state agency, see 12-9-19 NMSA 1978.

**The 1991 amendment**, effective April 1, 1991, designated the formerly undesignated provisions as Subsections A to D; in Subsection A, rewrote the second sentence which read "The committee shall be composed of eight members, four members from the house of representatives and four members from the senate", substituted "Six of the remaining members" for "Two of the remaining members" and "seven remaining members" for "three remaining members" in the fifth sentence, and added the sixth sentence, and made minor stylistic changes throughout the section.

**Advisory members.** — The appointing authorities for the legislative finance committee do not have the authority to enlarge the membership of that committee to include advisory members and confer upon those advisory members the right to vote. 1987 Op. Att'y Gen. No. 87-19.

**Legislature intended 2-1-9 NMSA 1978 to govern certain reimbursements** to members of the legislative education study committee, the legislative council and the legislative finance committee. 1979 Op. Att'y Gen. No. 79-40.

**Who may be compensated for expenses.** — Excluding the chairmen of three specified standing committees, or their designees, the five other members of the legislative finance committee may be reimbursed for expenses incurred for actually serving on the committee, but this section precludes substitution for these five members. 1979 Op. Att'y Gen. No. 79-40.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Formalities and requisites of the creation of legislative committees, 28 A.L.R. 1154.

81A C.J.S. States §§ 55, 133.

## **2-5-2. Legislative finance committee staff.**

The position of "director of the legislative finance committee" is created. The director shall be hired by the legislative finance committee, and shall serve at the pleasure of the legislative finance committee. The director shall be provided with the necessary office space, supplies, equipment and assistants by the legislative finance committee. His salary shall be set by the legislative finance committee.

**History:** 1953 Comp., § 2-5-2, enacted by Laws 1957, ch. 3, § 2; 1965, ch. 160, § 1.

### **ANNOTATIONS**

**This section is not continuing appropriation;** a further, specific appropriation is necessary to authorize payment of public funds to pay for staff and other necessary support for interim activities of the legislature as allowed by N.M. Const., art. IV, § 30. 1985 Op. Att'y Gen. No. 85-02.

## **2-5-3. Legislative finance committee; duties.**

The committee shall:

A. direct the director of the legislative finance committee in his work;

B. examine the laws governing the finances and operation of departments, agencies and institutions of New Mexico and all of its political subdivisions, the effect of laws on the proper functioning of these governmental units, the policies and costs of governmental units as related to the laws;

C. recommend changes in these laws if any are deemed desirable, and draft and present to the legislature any legislation necessary;

D. make a full report of its findings and recommendations for the consideration of each successive legislature following its original establishment, the report and suggested legislation to be available to each member of the legislature on or before the first day of the regular session thereof.

**History:** 1953 Comp., § 2-5-3, enacted by Laws 1957, ch. 3, § 3; 1963, ch. 241, § 1; 1965, ch. 160, § 2.

#### **ANNOTATIONS**

**Section authorizes the examination of the effect of laws governing finances and operation** upon the proper functioning of governmental units and the policies and costs of governmental units as related to such laws, for the purpose of determining the need for any new laws concerning the finances and operation of the governmental units and for the repeal of old laws. 1957-58 Op. Att'y Gen. No. 57-118.

**Section authorizes inquiry into policies and costs of a governmental unit** as these are related to the operation and financial laws governing such a unit. 1957-58 Op. Att'y Gen. No. 57-118.

**Inquiry as to the effectiveness of the operating policies of a governmental unit** and the relationship of such policies on the costs of the governmental unit would be pertinent. 1957-58 Op. Att'y Gen. No. 57-118.

**Examination of the books, records and operating policies is authorized**, since to determine cost, specific inquiry would have to be made into items of costs as well as operating policies behind the expending of public money. 1957-58 Op. Att'y Gen. No. 57-118.

#### **2-5-4. Legislative finance committee; additional duties.**

A. The legislative finance committee, in addition to all other duties prescribed by law, shall annually review budgets and appropriations requests, and the operation and

management of selected state agencies, departments and institutions and shall make recommendations with respect thereto to the legislature.

B. To carry out the purposes of this section, the legislative finance committee shall establish a budget analysis division staffed with persons knowledgeable and proficient in budget analysis and budget preparation.

C. Each state agency, department and institution shall furnish to the legislative finance committee a copy of its appropriation request made to the department of finance and administration at the same time such request is made to such department. Each state agency, department or institution shall also furnish to the legislative finance committee and its staff any other supporting information or data deemed necessary to carry out the purposes of this section.

D. The legislative finance committee, or, when it deems necessary, its staff may hold such hearings and require such testimony from officers and employees of each state agency, department or institution as is necessary to carry out the purposes of this section.

E. Not later than the first week of any regular legislative session, the legislative finance committee shall furnish a document containing its budget recommendations to each member of the senate finance committee, the house appropriations and finance committee and to those other members of the legislature which may request it. A copy shall also be furnished to the governor and to the department of finance and administration.

**History:** 1953 Comp., § 2-5-3.1, enacted by Laws 1967, ch. 267, § 1.

## ANNOTATIONS

**Section authorizes the examination of the effect of laws governing finances and operation** upon the proper functioning of governmental units and the policies and costs of governmental units as related to such laws, for the purpose of determining the need for any new laws concerning the finances and operation of the governmental units and for the repeal of old laws. 1957-58 Op. Att'y Gen. No. 57-118.

**Section authorizes inquiry into policies and costs of a governmental unit** as these are related to the operation and financial laws governing such a unit. 1957-58 Op. Att'y Gen. No. 57-118.

**Inquiry as to the effectiveness of the operating policies of a governmental unit** and the relationship of such policies on the costs of the governmental unit would be pertinent. 1957-58 Op. Att'y Gen. No. 57-118.

**Examination of the books, records and operating policies is authorized,** since to determine cost, specific inquiry would have to be made into items of costs as well as

operating policies behind the expending of public money. 1957-58 Op. Att'y Gen. No. 57-118.

### **2-5-4.1. Legislative systems; coordination with other agencies; fiscal impact information; dynamic forecasting pilot project.**

A. The legislative finance committee shall cooperate with the office of the governor, the department of finance and administration and the taxation and revenue department in designing a timely and accurate system of providing fiscal impact and other pertinent information to the legislature concerning pending legislation.

B. Beginning January 1, 2004, a two-year dynamic forecasting pilot project shall be conducted by the legislative finance committee, the department of finance and administration, the taxation and revenue department and the state highway and transportation department in which fiscal impact information provided to the legislature concerning legislation that proposes one or more changes to laws on taxation shall be prepared on the basis of assumptions that estimate the probable behavioral response of taxpayers, businesses and other persons to the proposed changes. This requirement applies only to legislation:

(1) introduced during the second session of the forty-sixth legislature and the first session of the forty-seventh legislature; and

(2) determined by the legislative finance committee, pursuant to a static fiscal estimate, to have a fiscal impact when fully implemented in excess of ten million dollars (\$10,000,000) in a fiscal year.

C. The legislative finance committee shall cooperate with the department of finance and administration and other necessary executive agencies to develop the methodology to implement the dynamic forecasting pilot project pursuant to the requirements of Subsection B of this section.

D. Following the first session of the forty-seventh legislature, the legislative finance committee shall evaluate the success of the dynamic forecasting pilot project required by Subsection B of this section and determine if dynamic forecasting should become a permanent feature of fiscal impact analyses. In making this determination, the legislative finance committee shall consider if this process:

(1) provides a reliable and reasonably accurate analytic tool to aid legislators in determining the effect of proposed legislation;

(2) can be accomplished with a reasonable amount of resources; and

(3) can be incorporated into fiscal impact estimates in a form that is easily understood and usable.

**History:** 1978 Comp., § 2-5-4.1, enacted by Laws 1979, ch. 229, § 1; 2003, ch. 73, § 1.

### **ANNOTATIONS**

**Cross references.** — For the Department of Finance and Administration Act, see 9-6-1 NMSA 1978 et seq.

For the Taxation and Revenue Department Act, see 9-11-1 NMSA 1978 et seq.

**The 2003 amendment,** effective June 20, 2003, inserted "fiscal impact information; dynamic forecasting pilot project" at the end of the section heading; and designated the former first paragraph as present Subsection A and inserted Subsections B, C and D.

### **2-5-5. Legislative finance committee; powers.**

The committee shall have the power to conduct hearings and to administer oaths. The committee or any subcommittee thereof consisting of three members or more shall have the power to subpoena, which may be enforced through any district court of the state. Process of such committee shall be served by any sheriff or any member of the New Mexico state police, and shall be served without cost to the committee.

**History:** 1953 Comp., § 2-5-4, enacted by Laws 1957, ch. 3, § 4.

### **ANNOTATIONS**

**Cross references.** — For district court procedure of serving and enforcing subpoena, see Rule 1-045 NMRA.

**Financing lawsuits.** — The legislative finance committee has no express authority to sue or be sued, or to finance litigation that others, including individual legislators, initiate to challenge line-item vetoes. 1988 Op. Att'y Gen. No. 88-61.

### **2-5-6. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1981, ch. 64, § 1, repealed 2-5-6 NMSA 1978, relating to the expenses of the legislative finance committee, effective March 21, 1981.

### **2-5-7. Cooperation.**

Each agency or institution of the state and its political subdivisions shall, upon request, furnish and make available to the legislative finance committee such documents, material or information as may be requested by the members of the committee or its director or staff which are not made confidential by law.

**History:** 1953 Comp., § 2-5-6, enacted by Laws 1957, ch. 3, § 6; 1965, ch. 160, § 3.

## ANNOTATIONS

**Cross references.** — For availability to legislative finance committee of information in files of legislative council, and vice versa, see 2-3-18 NMSA 1978.

For confidentiality of certain public records, see 14-2-1 NMSA 1978.

**Examination authorized.** — Records of the income tax division of the bureau of revenue (now the revenue division of the taxation and revenue department) may be examined by the legislative finance committee and its staff for the purpose of making statistical reports concerning revenue from franchise taxes and for the purpose of recommending legislation to improve administration of the law involved. 1957-58 Op. Att'y Gen. No. 57-162.

**Legislature intended all governmental units to cooperate with the legislative finance committee** in order that the committee might properly carry out its intended functions, since, if such cooperation is not forthcoming, the committee is given the power to enforce such cooperation by use of the subpoena. 1957-58 Op. Att'y Gen. No. 57-118.

## ARTICLE 6

### Introduction of Bills

#### 2-6-1. Limit on the time within which bills may be introduced.

No bill shall be introduced at any regular session of the legislature subsequent to the thirtieth legislative day in sessions held in the odd-numbered years or subsequent to the fifteenth legislative day in sessions held in the even-numbered years. The limitation provided in this section does not apply to the general appropriation bill, bills to provide for the current expenses of the government and such bills as may be referred to the legislature by the governor by special message specifically setting forth the emergency or necessity requiring such legislation.

**History:** 1953 Comp., § 2-6-1, enacted by Laws 1961, ch. 2, § 1; 1971, ch. 174, § 1; 1978, ch. 155, § 1.

## ANNOTATIONS

**Cross references.** — For legislative sessions, see 2-9-1 NMSA 1978.

For time limit on introduction of bills, see N.M. Const., art. IV, § 19.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 73 Am. Jur. 2d Statutes § 23.

82 C.J.S. Statutes § 22.

## **ARTICLE 7**

### **Apportionment of House of Representatives**

(Repealed by Laws 1982 (2nd S.S.), ch. 1, § 80 and Laws 1982 (3rd S.S.), ch. 4, § 79.)

**2-7-1 to 2-7-88. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1982 (2nd S.S.), ch. 1, § 80, effective January 16, 1982, and Laws 1982 (3rd S.S.), ch. 4, § 79, effective June 21, 1982, both repealed 2-7-1 to 2-7-88 NMSA 1978, relating to the apportionment of the house of representatives.

Laws 1982 (3rd S.S.), ch. 4, § 79, purportedly also repealed Laws 1982 (1st S.S.), ch. 1, in the event that the United States supreme court does not affirm its constitutionality. There was no first special session in 1982, but there was a second special session, ch. 1 of which enacted 2-7A-1 to 2-7A-79 NMSA 1978 and repealed 2-7-1 to 2-7-88 NMSA 1978. Article 7A of Chapter 2 NMSA 1978 was held unconstitutional in 1982.

## **ARTICLE 7A**

### **Apportionment of House of Representatives**

(Repealed by Laws 1982 (3rd S.S.), ch. 4, § 79.)

**2-7A-1 to 2-7A-79. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1982 (3rd S.S.), ch. 4, § 79, effective June 21, 1982, purportedly repealed Laws 1982 (1st S.S.), ch. 1, in the event that the United States supreme court does not affirm its constitutionality. There was no first special session in 1982, but there was a second special session, ch. 1 of which enacted 2-7A-1 to 2-7A-79 NMSA 1978, relating to the apportionment of the house of representatives. Article 7A of Chapter 2 NMSA 1978 was held unconstitutional in 1982.

## **ARTICLE 7B**

### **Apportionment of House of Representatives**

(Repealed by Laws 1991 (1st S.S.), ch. 2, § 80.)

**2-7B-1 to 2-7B-78. Repealed.**

## ANNOTATIONS

**Repeals.** — Laws 1991 (1st S.S.), ch. 2, § 80 repealed 2-7B-1 to 2-7B-78 NMSA 1978, as enacted by Laws 1982 (3rd S.S.), ch. 4, §§ 1 to 78, relating to the 1982 House Reapportionment Act, effective December 18, 1991. For provisions of former sections, see the 1990 NMSA 1978 on *NMONESOURCE.COM*.

## ARTICLE 7C

### 1991 House Redistricting Act

#### 2-7C-1, 2-7C-2. Unconstitutional.

## ANNOTATIONS

**Compiler's notes.** — Sections 2-7C-1 to 2-7C-78 NMSA 1978, as enacted by Laws 1991 (1st S.S.), Chapter 2, were held to be malapportioned and, therefore, unconstitutional in *Jepson v. Vigil-Giron*, D-0101-CV-2001-02177 (1st Dist. Ct., filed January 24, 2002). The court approved and adopted a redistricting plan, which was set out as 2-7D-1 NMSA 1978.

The districts adopted in *Jepson v. Vigil-Giron*, D-0101-CV-2001-02177 (N.M. 1st Jud. Dist. January 24, 2002) and set forth in Section 2-7D-1 NMSA 1978, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. February 28, 2012). The redistricting plan embodied in Section 2-7E-1 NMSA 1978 was adopted by that court.

Sections 2-7C-3 to 2-7C-6 NMSA 1978 are set out in full because they do not directly relate to the issue of district boundaries and were probably not meant to be affected by the court order.

#### 2-7C-3. Membership.

The house of representatives is composed of seventy members to be elected from districts that are contiguous and that are as compact as is practical and possible.

**History:** Laws 1991 (1st S.S.), ch. 2, § 3.

## ANNOTATIONS

**Compiler's notes.** — The court order in *Jepson v. Vigil-Giron* stated that the house districts established in 1991 were malapportioned and, therefore, unconstitutional. Sections 2-7C-3 to 2-7C-6 NMSA 1978 are set out in full because they do not directly relate to the issue of district boundaries and were probably not meant to be affected by the court order.

## **2-7C-4. Residence.**

At the time of filing his declaration of candidacy for the office of state representative, a candidate shall reside in the district for which he files. Thereafter, if any representative permanently removes his residence from or maintains no residence in the district from which he was elected, he shall be deemed to have resigned and his successor shall be selected as provided in Section 5 [2-7C-5 NMSA 1978] of the 1991 House Redistricting Act.

**History:** Laws 1991 (1st S.S.), ch. 2, § 4.

### **ANNOTATIONS**

**Compiler's notes.** — The court order in *Jepsen v. Vigil-Giron* stated that the house districts established in 1991 were malapportioned and, therefore, unconstitutional. Sections 2-7C-3 to 2-7C-6 NMSA 1978 are set out in full because they do not directly relate to the issue of district boundaries and were probably not meant to be affected by the court order.

## **2-7C-5. Elections, vacancies.**

A. Members of the house of representatives shall be elected for terms of two years.

B. If a vacancy occurs in the office of representative for any reason, the vacancy shall be filled as follows:

(1) in any representative district situated wholly within the exterior boundaries of a single county, by appointment of the board of county commissioners of that county; and

(2) in any representative district situated within an area composed of two or more counties, by the following method:

(a) the board of county commissioners of each county in the representative district shall submit one name to the governor; and

(b) the governor shall appoint the representative to fill the vacancy from the list of names so submitted.

C. All appointments to fill vacancies in the house of representatives shall be for a term ending on December 31 subsequent to the next succeeding general election.

**History:** Laws 1991 (1st S.S.), ch. 2, § 5.

### **ANNOTATIONS**

**Compiler's notes.** — The court order in *Jepsen v. Vigil-Giron* stated that the house districts established in 1991 were malapportioned and, therefore, unconstitutional. Sections 2-7C-3 to 2-7C-6 NMSA 1978 are set out in full because they do not directly relate to the issue of district boundaries and were probably not meant to be affected by the court order.

## **2-7C-6. Precincts.**

A. Precinct designations and boundaries used in the 1991 House Redistricting Act are those precinct designations and boundaries established pursuant to the Precinct Boundary Adjustment Act [1-3-10 through 1-3-14 NMSA 1978] and revised and approved pursuant to that act by the secretary of state as of August 16, 1991, except as otherwise provided in the 1991 House Redistricting Act.

B. The boards of county commissioners shall not create any precinct that lies in more than one representative district, nor shall the boards of county commissioners divide any precinct so that the divided parts of the precinct are situated in two or more representative districts. Votes cast in any general, primary or other statewide election from precincts created or divided in violation of this subsection shall be invalid and shall not be counted or canvassed.

History: Laws 1991 (1st S.S.), ch. 2, § 6.

## **2-7C-7 to 2-7C-78. Unconstitutional.**

### **ANNOTATIONS**

**Compiler's notes.** — Sections 2-7C-1 to 2-7C-78 NMSA 1978, as enacted by Laws 1991 (1st S.S.), Chapter 2, were held to be malapportioned and, therefore, unconstitutional in *Jepsen v. Vigil-Giron*, D-0101-CV-2001-02177 (1st Dist. Ct., filed January 24, 2002). The court approved and adopted a redistricting plan, which was set out as 2-7D-1 NMSA 1978.

The districts adopted in *Jepsen v. Vigil-Giron*, D-0101-CV-2001-02177 (N.M. 1st Jud. Dist. January 24, 2002) and set forth in Section 2-7D-1 NMSA 1978, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. February 28, 2012). The redistricting plan embodied in Section 2-7E-1 NMSA 1978 was adopted by that court.

Sections 2-7C-3 to 2-7C-6 NMSA 1978 are set out in full because they do not directly relate to the issue of district boundaries and were probably not meant to be affected by the court order.

## **ARTICLE 7D**

### **State House of Representatives Redistricting Plan**

## **2-7D-1. Unconstitutional.**

### **ANNOTATIONS**

**Compiler's notes.** — The New Mexico House of Representatives districts adopted in *Jepsen v. Vigil-Giron*, D-0101-CV-2001-02177 (N.M. 1st Jud. Dist. January 24, 2002) and set forth in Section 2-7D-1 NMSA 1978, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. February 28, 2012). The redistricting plan embodied in Section 2-7E-1 NMSA 1978 was adopted by that court.

## **ARTICLE 7E**

### **State House of Representatives Redistricting Plan**

#### **2-7E-1. [House of representatives redistricting plan.]**

Representative district one is composed of San Juan county precincts 28, 29, 31 through 34, 39, 41, 42, 44, 46 through 49, 57 through 59 and 67.

Representative district two is composed of San Juan county precincts 35 through 38, 40, 43, 45, 50 through 56 and 70.

Representative district three is composed of San Juan county precincts 60 through 66, 68, 69 and 71 through 77.

Representative district four is composed of San Juan county precincts 1 through 7, 20 through 27 and 30.

Representative district five is composed of McKinley county precincts 5, 7 through 10, 13, 19, 23, 35, 36, 43, 44, 46 through 49, 55 and 56; and San Juan county precincts 10 through 14, 17 and 18.

Representative district six is composed of Cibola county precincts 1, 5, 7, 8 and 13 through 15; and McKinley county precincts 15, 17, 18, 24 through 30 and 52 through 54.

Representative district seven is composed of Valencia county precincts 5, 6, 8, 10, 14 through 16, 21, 22, 24, 28, 32, 34 and 36.

Representative district eight is composed of Valencia county precincts 2 through 4, 7, 9, 11, 12, 17 through 19, 23, 37 and 39 through 41.

Representative district nine is composed of McKinley county precincts 1 through 4, 6, 20 through 22, 31 through 34, 37 through 42, 45, 50 and 57 through 59; and San Juan county precincts 8 and 9.

Representative district ten is composed of Bernalillo county precincts 90 through 92, 94 through 99, 103 through 106, 144, 257, 258 and 278.

Representative district eleven is composed of Bernalillo county precincts 121 through 125, 131 through 133, 150 through 154, 161 through 166, 185 through 187, 196, 197, 211, 212, 217 and 221.

Representative district twelve is composed of Bernalillo county precincts 43, 44, 49, 71 through 77, 139, 142 and 143.

Representative district thirteen is composed of Bernalillo county precincts 41, 42, 52 through 54, 59, 60, 138, 140 and 141.

Representative district fourteen is composed of Bernalillo county precincts 32, 33, 45 through 48, 50, 51, 61 through 67, 109, 135 and 225.

Representative district fifteen is composed of Bernalillo county precincts 4 through 10, 12, 13, 83, 86, 108, 418, 419, 422, 423, 448 and 601.

Representative district sixteen is composed of Bernalillo county precincts 21 through 23, 25 through 30 and 35 through 40.

Representative district seventeen is composed of Bernalillo county precincts 11, 14 through 18, 180 through 184, 191 through 195, 347, 410, 438 and 455.

Representative district eighteen is composed of Bernalillo county precincts 101, 102, 107, 214 through 216, 223, 224, 226, 241 through 246, 251 through 253, 341 through 346, 351, 352 and 354 through 358.

Representative district nineteen is composed of Bernalillo county precincts 254 through 256, 271 through 275, 281 through 285, 287, 311, 312, 315, 317, 321 through 323, 353 and 381 through 385.

Representative district twenty is composed of Bernalillo county precincts 289, 290, 294 through 296, 298 through 303, 305, 306, 324, 328, 331 through 333 and 544.

Representative district twenty-one is composed of Bernalillo county precincts 286, 291 through 293, 297, 318, 326, 327, 329, 330, 477 and 478.

Representative district twenty-two is composed of Bernalillo county precincts 552 through 559 and 570 through 573; Sandoval county precincts 5, 6, 28, 55, 56 and 76; and Santa Fe county precincts 15, 73 and 84.

Representative district twenty-three is composed of Bernalillo county precincts 3, 20, 78, 84, 110, 111, 114 and 171; and Sandoval county precincts 11 through 13, 32, 33, 54 and 57.

Representative district twenty-four is composed of Bernalillo county precincts 316, 453, 463 through 465, 471 through 476, 502 through 507, 514, 522, 531 through 535, 542, 543 and 562.

Representative district twenty-five is composed of Bernalillo county precincts 313, 314, 371 through 375, 386, 387, 401 through 403, 411 through 417, 431 through 437, 441 through 446, 491 and 492.

Representative district twenty-six is composed of Bernalillo county precincts 34, 55, 56, 58, 70, 88, 119, 120, 136 and 137.

Representative district twenty-seven is composed of Bernalillo county precincts 407, 420, 421, 426, 427, 449 through 451, 456, 482, 483, 485 through 490, 500, 510, 538, 563 and 568.

Representative district twenty-eight is composed of Bernalillo county precincts 304, 307, 308, 480, 515 through 519, 521, 524 through 528, 530, 536, 540, 545 through 550, 561 and 564 through 566.

Representative district twenty-nine is composed of Bernalillo county precincts 1, 24, 57, 80, 81, 115, 117, 118, 127, 128 and 134.

Representative district thirty is composed of Bernalillo county precincts 400, 404 through 406, 408, 409, 439, 440, 461, 462, 466, 481, 484, 493 through 499, 508, 509, 511 through 513, 523 and 529.

Representative district thirty-one is composed of Bernalillo county precincts 424, 425, 428 through 430, 447, 452, 454, 520, 537, 539, 541, 560, 567, 569, 602 and 603.

Representative district thirty-two is composed of Grant county precinct 31; Hidalgo county precincts 1 through 3, 5 and 6; and Luna county.

Representative district thirty-three is composed of Doña Ana county precincts 18, 39, 40, 45 through 53, 55 through 58, 72, 78, 98, 101 and 108.

Representative district thirty-four is composed of Doña Ana county precincts 13 through 17, 79, 82, 96 and 97.

Representative district thirty-five is composed of Doña Ana county precincts 20, 24, 26 through 30, 32, 35 through 37, 41 through 44, 83, 84, 89, 91, 92, 99 and 109.

Representative district thirty-six is composed of Doña Ana county precincts 1, 2, 22, 23, 25, 31, 65, 85 through 88, 90, 95, 105 and 117 through 119.

Representative district thirty-seven is composed of Doña Ana county precincts 33, 34, 59, 61, 62, 67 through 71, 93, 94, 102, 103, 106, 112, 113 and 116.

Representative district thirty-eight is composed of Grant county precincts 1 through 7, 11 through 18, 20 through 22, 30 and 35; Hidalgo county precinct 4; and Sierra county precincts 2 through 9.

Representative district thirty-nine is composed of Doña Ana county precincts 3, 4, 19, 21, 38, 60, 63, 100, 107, 111 and 115; Grant county precincts 8 through 10, 19, 23 through 29 and 32 through 34; and Sierra county precinct 1.

Representative district forty is composed of Colfax county precincts 1 through 5 and 7; Mora county; Rio Arriba county precincts 2, 3, 5, 6, 13 through 17, 37, 38 and 41; and San Miguel county precincts 9, 10, 12, 23 and 24.

Representative district forty-one is composed of Rio Arriba county precincts 1, 4, 7 through 12, 18 through 23, 26 through 28, 31 through 36, 39, 40 and 42; Santa Fe county precinct 58; and Taos county precincts 1, 9, 22 and 23.

Representative district forty-two is composed of Taos county precincts 2 through 8, 10 through 21 and 24 through 36.

Representative district forty-three is composed of Los Alamos county; Rio Arriba county precincts 25 and 30; Sandoval county precincts 7, 16 through 18, 21 through 23, 51, 78 and 79; and Santa Fe county precincts 12 and 80.

Representative district forty-four is composed of Sandoval county precincts 34 through 39, 50, 52, 53, 58 through 61, 64, 73, 74, 82 and 83.

Representative district forty-five is composed of Santa Fe county precincts 29, 49 through 51, 56, 62, 64, 75 through 78 and 86.

Representative district forty-six is composed of Santa Fe county precincts 1 through 8, 11, 20, 23, 25 through 27, 31, 33, 34, 40, 59 through 61, 79, 82 and 87.

Representative district forty-seven is composed of Santa Fe county precincts 9, 10, 13, 14, 21, 22, 28, 30, 47, 48, 55, 57, 68, 70, 72, 81, 83 and 88.

Representative district forty-eight is composed of Santa Fe county precincts 24, 32, 35 through 39, 41 through 46, 52 through 54, 66, 67 and 74.

Representative district forty-nine is composed of Catron county; Socorro county precincts 1 through 14 and 16 through 26; and Valencia county precincts 1, 20, 25 through 27, 31 and 35.

Representative district fifty is composed of Bernalillo county precinct 551; Santa Fe county precincts 16 through 18, 63, 65, 69, 71 and 85; Tarrant county precincts 3 through 5, 7, 9, 10, 13 and 16; and Valencia county precincts 29, 30, 33 and 38.

Representative district fifty-one is composed of Otero county precincts 15, 17 through 27, 30 through 34, 36, 37, 39 and 40.

Representative district fifty-two is composed of Doña Ana county precincts 7 through 12, 54, 73, 77, 80, 81, 104, 110, 114 and 120.

Representative district fifty-three is composed of Doña Ana county precincts 5, 6, 64, 66 and 74 through 76; and Otero county precincts 1, 16, 35 and 41.

Representative district fifty-four is composed of Chaves county precincts 103 and 104; Eddy county precincts 2, 3, 6 through 15, 29, 30, 34, 35 and 38 through 41; and Otero county precincts 2 through 9.

Representative district fifty-five is composed of Eddy county precincts 1, 4, 5, 16 through 21, 23, 25 through 28, 32, 33, 36, 37, 42, 44 and 45.

Representative district fifty-six is composed of Lincoln county precincts 6 through 12, 18 and 21; and Otero county precincts 10 through 14, 28, 29 and 38.

Representative district fifty-seven is composed of Sandoval county precincts 47, 63, 65 through 71, 75, 80 and 84.

Representative district fifty-eight is composed of Chaves county precincts 24, 25, 32 through 34, 42, 43, 51, 52, 61 through 63, 71 through 73, 81, 90, 92, 94, 101 and 102.

Representative district fifty-nine is composed of Chaves county precincts 9 through 13, 16, 21 through 23, 31, 35, 36, 82 through 85, 91 and 93; and Lincoln county precincts 1 through 5, 13 through 17, 19 and 20.

Representative district sixty is composed of Sandoval county precincts 30, 31, 40 through 46, 48, 49, 62, 72, 81, 85 and 86.

Representative district sixty-one is composed of Lea county precincts 11, 12, 14 through 17, 34 through 36, 52 through 55, 61, 62 and 71 through 74.

Representative district sixty-two is composed of Lea county precincts 18, 20, 22 through 33, 41 through 44 and 51.

Representative district sixty-three is composed of Curry county precincts 4 through 9, 20, 25, 26, 28, 30 and 36; De Baca county; Guadalupe county; Roosevelt county precincts 1, 6 through 8 and 17; and San Miguel county precinct 17.

Representative district sixty-four is composed of Curry county precincts 3, 10 through 19, 21 through 24, 27, 29, 31, 32, 35 and 37.

Representative district sixty-five is composed of Rio Arriba county precincts 24 and 29; San Juan county precincts 16 and 19; and Sandoval county precincts 1 through 4, 8 through 10, 14, 15, 19, 20, 24 through 27 and 29.

Representative district sixty-six is composed of Chaves county precincts 1 through 7, 14, 15, 41 and 44 through 47; Lea county precincts 2, 3, 10, 13 and 21; and Roosevelt county precincts 3 through 5, 9 through 11, 13, 15, 19 and 21.

Representative district sixty-seven is composed of Colfax county precincts 10 through 22; Curry county precincts 1, 2, 33 and 34; Harding county; Quay county; Roosevelt county precincts 2, 12 and 18; San Miguel county precinct 15; and Union county.

Representative district sixty-eight is composed of Bernalillo county precincts 2, 19, 68, 69, 79, 82, 85, 87, 89, 112, 113, 116, 129 and 170.

Representative district sixty-nine is composed of Bernalillo county precincts 31 and 93; Cibola county precincts 2 through 4, 6, 9 through 12 and 16 through 25; McKinley county precincts 11, 12, 14 and 16; San Juan county precinct 15; Socorro county precinct 15; and Valencia county precinct 13.

Representative district seventy is composed of San Miguel county precincts 1 through 8, 11, 13, 14, 16, 18 through 22 and 25 through 28; Santa Fe county precinct 19; and Tarrant county precincts 1, 2, 6, 8, 11, 12, 14 and 15.

## ANNOTATIONS

**Compiler's notes.** — The New Mexico House of Representatives districts adopted in *Jepsen v. Vigil-Giron*, D-0101-CV-2001-02177 (N.M. 1st Jud. Dist. January 24, 2002) and set forth in Section 2-7D-1, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. February 28, 2012). The redistricting plan embodied in this section was adopted by that court. The section number was assigned by the compiler.

In *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. January 25, 2012), the court determined that the congressional districts and public regulation commission districts established in *Jepsen v. Vigil-Giron*, D-0101-CV-2001-02177 (1st Jud. Dist. January 8, 2002) and set forth in Sections 1-15-15.1 and 8-7-6 through 8-7-10 NMSA 1978, respectively, were malapportioned and therefore unconstitutional and established the congressional districts set forth in Section 1-15-15.2 NMSA 1978 and the public regulation commission districts set forth in Section 8-7-12 NMSA 1978. With regard to the precinct designations and boundaries used by the court, the court's order provided that "Precinct designations and boundaries used in this order are those precinct designations and boundaries established in accordance with law and approved by the Secretary of State as of August 31, 2011 for use in the 2011 redistricting process".

**Cross references.** — For membership of house of representatives, residing requirements, term of office and filling of vacancies, see 2-7C-3 to 2-7C-5 NMSA 1978.

**Legislature must construct voting districts based on actual population.** — The state legislature must employ a good-faith effort to construct legislative voting districts on the basis of actual population. *Sanchez v. King*, 550 F. Supp. 13 (D.N.M.), *aff'd*, 459 U.S. 801, 103 S. Ct. 32, 74 L. Ed. 2d 46 (1982).

**The legislature may not reapportion its membership** until after publication of the official report of the 2010 federal census. 2007 Op. Att'y Gen. No. 07-02.

## **ARTICLE 8**

### **Apportionment of Senate**

(Repealed by Laws 1982 (2nd S.S.), ch. 2, § 53 and Laws 1982 (3rd S.S.), ch. 1, § 52.)

**2-8-1 to 2-8-53. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1982 (2nd S.S.), ch. 2, § 53, effective January 19, 1982, and Laws 1982 (3rd S.S.), ch. 1, § 52, effective June 23, 1982, both repealed 2-8-1 to 2-8-53 NMSA 1978, relating to the apportionment of the senate. For present provisions, see Chapter 2, Article 8D NMSA 1978.

Laws 1982 (3rd S.S.), ch. 1, § 52, purportedly also repealed Laws 1982 (1st S.S.), ch. 2, effective June 23, 1982. There was no first special session in 1982, but there was a second special session, ch. 2 of which repealed 2-8-1 to 2-8-53 NMSA 1978.

## **ARTICLE 8A**

### **Apportionment of Senate**

(Repealed by Laws 1982 (3rd S.S.), ch. 1, § 52.)

**2-8A-1 to 2-8A-52. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1982 (3rd S.S.), ch. 1, § 52, purportedly repealed Laws 1982 (1st S.S.), ch. 2, effective June 23, 1982. There was no first special session in 1982, but there was a second special session, ch. 2 of which enacted 2-8A-1 to 2-8A-52 NMSA 1978, relating to the apportionment of the senate. For present provisions, see 2-8D-1 NMSA 1978 et seq.

## **ARTICLE 8B**

### **Apportionment of Senate**

(Repealed by Laws 1991 (1st S.S.), ch. 3, § 50.)

#### **2-8B-1 to 2-8B-51. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1991 (1st S.S.), ch. 3, § 50 repealed 2-8B-1 to 2-8B-51 NMSA 1978, as enacted by Laws 1982 (3rd S.S.), ch. 1, §§ 1 to 51 relating to the 1982 Senate Reapportionment Act, effective December 18, 1991. For provisions of former sections, see the 1990 NMSA 1978 on *NMONESOURCE.COM*.

## **ARTICLE 8C**

### **1991 Senate Redistricting Act**

(Repealed by Laws 2002, ch. 98, § 50.)

#### **2-8C-1 to 2-8C-49. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 2002, ch. 98, § 50 repealed 2-8C-1 to 2-8C-49 NMSA 1978, as enacted by Laws 1991 (1st S.S.), ch. 3, § 1, relating to the 1991 Senate Redistricting Act, effective May 15, 2002. For provisions of former sections, see the 2001 NMSA 1978 on *NMONESOURCE.COM*.

## **ARTICLE 8D**

### **2002 Senate Redistricting Act**

#### **2-8D-1. Short title.**

This act may be cited as the "2002 Senate Redistricting Act".

**History:** Laws 2002, ch. 98, § 1.

#### **ANNOTATIONS**

**Compiler's notes.** — The districts set out in the 2002 Senate Redistricting Act, Sections 2-8D-6 through 2-8D-49 NMSA 1978, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist.

January 25, 2012). The redistricting plan embodied in Section 2-8E-1 NMSA 1978 was adopted by that court.

**Effective dates.** — Laws 2002, ch. 98 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 15, 2002, 90 days after adjournment of the legislature.

**The legislature may not reapportion its membership** until after publication of the official report of the 2010 federal census. 2007 Op. Att'y Gen. No. 07-02.

## **2-8D-2. Membership.**

The senate is composed of forty-two members to be elected from districts that are contiguous and that are as compact as is practical.

**History:** Laws 2002, ch. 98, § 2.

### **ANNOTATIONS**

**Effective dates.** — Laws 2002, ch. 98 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 15, 2002, 90 days after adjournment of the legislature.

## **2-8D-3. Residence.**

At the time of filing a declaration of candidacy for the office of state senator, the candidate shall reside in the district for which he files. Thereafter, if a senator permanently removes his residence from or maintains no residence in the district from which he was elected, he shall be deemed to have resigned and his successor shall be selected as provided in Section 4 [2-8D-4 NMSA 1978] of the 2002 Senate Redistricting Act.

**History:** Laws 2002, ch. 98, § 3.

### **ANNOTATIONS**

**Effective dates.** — Laws 2002, ch. 98 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 15, 2002, 90 days after adjournment of the legislature.

**Residency, not registration to vote, qualifies candidate.** — Candidate was not a qualified elector eligible for a district senate candidacy where, although he registered and voted in a precinct in that district, he was ineligible to so register and vote because he actually resided outside the precinct and district. *Thompson v. Robinson*, 1984-NMSC-096, 101 N.M. 703, 688 P.2d 21 (1984).

## **2-8D-4. Elections; vacancies.**

A. Members of the senate shall be elected for terms of four years.

B. If a vacancy occurs in the office of senator for any reason, the vacancy shall be filled as follows:

(1) for a senate district that is situated wholly within the exterior boundaries of a single county, the board of county commissioners of that county shall appoint the senator to fill the vacancy; and

(2) for a senate district situated within two or more counties:

(a) the board of county commissioners of each county in the senate district shall submit one name to the governor; and

(b) the governor shall appoint the senator to fill the vacancy from the list of names so submitted.

C. An appointment to fill a vacancy in the senate shall be for a term ending on December 31 after the next general election.

D. An appointment to fill a vacancy made before the general election of 2004 shall be made from the district as it was described in Laws 1991 (1st S.S.), Chapter 3, Sections 7 through 48. After the general election of 2004, a vacancy shall be filled by appointment from the district set out in the 2002 Senate Redistricting Act.

**History:** Laws 2002, ch. 98, § 4.

### **ANNOTATIONS**

**Effective dates.** — Laws 2002, ch. 98 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 15, 2002, 90 days after adjournment of the legislature.

**Compiler's notes.** — Laws 1991 (1st S.S.), Chapter 3, Sections 7 through 48, referred to in Subsection D, were formerly compiled as 2-8C-7 through 2-8C-48 NMSA 1978 and were repealed by Laws 2002, ch. 98, § 50, effective May 15, 2002. For provisions of these former sections, see the 2001 NMSA 1978 on *NMONESOURCE.COM*.

DOUBLE CLICK TO VIEW ARTICLE 8C 1991 SENATE REDISTRICTING ACT

## **2-8D-5. Precincts.**

A. Precinct designations and boundaries used in the 2002 Senate Redistricting Act are those precinct designations and boundaries established pursuant to the Precinct

Boundary Adjustment Act [1-3-10 through 1-3-14 NMSA 1978] and revised and approved pursuant to that act by the secretary of state as of August 31, 2001.

B. A board of county commissioners shall not create any precinct that lies in more than one senate district and shall not divide any precinct so that the divided parts of the precinct are situated in two or more senate districts. Votes cast in a statewide election from precincts created or divided in violation of this subsection are invalid and shall not be counted or canvassed.

**History:** Laws 2002, ch. 98, § 5.

### ANNOTATIONS

**Effective dates.** — Laws 2002, ch. 98 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 15, 2002, 90 days after adjournment of the legislature.

**Compiler's notes.** — In *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. January 25, 2012), the court determined that the congressional districts and public regulation commission districts established in *Jepsen v. Vigil-Giron*, D-0101-CV-2001-02177 (1st Jud. Dist. January 8, 2002) and set forth in Sections 1-15-15.1 and 8-7-6 through 8-7-10 NMSA 1978, respectively, were to be held to be malapportioned and therefore unconstitutional and established the congressional districts set forth in Section 1-15-15.2 NMSA 1978 and the public regulation commission districts set forth in Section 8-7-12 NMSA 1978. With regard to the precinct designations and boundaries used by the court, the court's order provided that "Precinct designations and boundaries used in this order are those precinct designations and boundaries established in accordance with law and approved by the Secretary of State as of August 31, 2011 for use in the 2011 redistricting process".

**Legislature must construct voting districts based on actual population.** — The state legislature must employ a good-faith effort to construct legislative voting districts on the basis of actual population. *Sanchez v. King*, 550 F. Supp. 13 (D.N.M. 1982), *aff'd sub nom. King v. Sanchez*, 459 U.S. 801, 103 S. Ct. 32, 74 L. Ed. 2d 46 (1982).

### 2-8D-6 to 2-8D-49. Unconstitutional.

### ANNOTATIONS

**Compiler's notes.** — The districts set out in the 2002 Senate Redistricting Act, Sections 2-8D-6 through 2-8D-49 NMSA 1978, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. January 25, 2012). The redistricting plan embodied in Section 2-8E-1 NMSA 1978 was adopted by that court.

# **ARTICLE 8E**

## **State Senate Redistricting Plan**

### **2-8E-1. [Senate redistricting plan.]**

Senate district one is composed of San Juan county precincts 26 through 40, 43 through 46, 49 through 53, 55 and 56.

Senate district two is composed of San Juan county precincts 21, 41, 42, 47, 48, 54 and 57 through 77.

Senate district three is composed of McKinley county precincts 2, 4 through 6, 20, 21, 31, 33 through 39, 41, 42, 49 and 59; and San Juan county precincts 1 through 8, 12, 13, 17, 18, 20 and 22 through 25.

Senate district four is composed of Cibola county precincts 4 through 6, 14 and 15; McKinley county precincts 1, 3, 14, 16 through 19, 22 through 29, 32, 40, 43 through 48, 50 and 52 through 58; and San Juan county precincts 9 through 11.

Senate district five is composed of Los Alamos county precincts 7 through 17; Rio Arriba county precincts 1 through 5, 7 through 12, 18 through 23, 28 and 31 through 42; Sandoval county precinct 51; and Santa Fe county precincts 1, 58 and 79.

Senate district six is composed of Los Alamos county precincts 1 through 6; Rio Arriba county precincts 6 and 13 through 17; Santa Fe county precincts 2 through 5, 23, 40, 59 through 61 and 87; and Taos county precincts 1, 2, 4 through 17, 19 through 25 and 27 through 36.

Senate district seven is composed of Curry county precincts 1 through 5, 10 through 28, 30, 32 through 35 and 37; Quay county precincts 1 through 4 and 6 through 11; and Union county.

Senate district eight is composed of Colfax county; Guadalupe county; Harding county; Mora county; Quay county precincts 5 and 12; San Miguel county precincts 1 through 12, 14, 15, 17 and 25 through 28; and Taos county precincts 3, 18 and 26.

Senate district nine is composed of Bernalillo county precinct 6; and Sandoval county precincts 1 through 6, 11 through 13, 29 through 36, 38, 52 through 57, 59, 62, 64, 72, 76, 83 and 86.

Senate district ten is composed of Bernalillo county precincts 2 through 5, 13, 17, 19, 68, 69, 78, 79, 83 through 85, 87, 89, 108, 116, 170 and 171; and Sandoval county precincts 45, 46, 70 and 85.

Senate district eleven is composed of Bernalillo county precincts 32, 41, 43, 44, 49 through 51, 53, 56, 59, 60, 66, 71, 74 and 137 through 140.

Senate district twelve is composed of Bernalillo county precincts 45, 46, 61 through 65, 67, 95, 101, 103 through 106, 121 through 125, 131 through 133, 135, 162 through 166, 212, 214 through 217, 221, 223 through 226, 341, 344 through 346 and 358.

Senate district thirteen is composed of Bernalillo county precincts 7 through 12, 14 through 16, 18, 30, 86, 150 through 154, 161, 180 through 187, 191 through 197, 211 and 455.

Senate district fourteen is composed of Bernalillo county precincts 42, 52, 54, 58, 72, 73, 75 through 77, 88, 90 through 92, 94, 96 through 99, 109 and 141 through 144.

Senate district fifteen is composed of Bernalillo county precincts 347, 400 through 406, 408, 409, 413 through 417, 431 through 440, 442 through 446, 462, 465, 466, 471 through 473, 481, 488, 490 through 494 and 496 through 500.

Senate district sixteen is composed of Bernalillo county precincts 102, 107, 241 through 246, 251 through 258, 271 through 274, 278, 281, 311 through 317, 342, 343, 351 through 357, 371 through 375, 381 through 387, 411, 412, 441 and 475.

Senate district seventeen is composed of Bernalillo county precincts 275, 282 through 287, 291 through 293, 318, 321 through 323, 326 through 331, 476 through 478 and 542.

Senate district eighteen is composed of Bernalillo county precincts 428 through 430, 449 through 454, 461, 463, 464, 474, 482 through 484, 495, 502 through 509, 511 through 516, 520, 522, 523, 528, 529, 531 through 534, 538, 562 and 563.

Senate district nineteen is composed of Bernalillo county precincts 289, 290, 294, 296, 303, 324, 332, 333, 552 through 559 and 570 through 573; Sandoval county precinct 28; Santa Fe county precincts 15, 16, 18, 19, 73, 84 and 85; and Tarrant county precincts 5, 6, 13 and 15.

Senate district twenty is composed of Bernalillo county precincts 295, 297 through 302, 304 through 308, 480, 517 through 519, 521, 524 through 527, 530, 535 through 537, 540, 543 through 550, 561, 564 through 566, 569 and 603.

Senate district twenty-one is composed of Bernalillo county precincts 407, 410, 418 through 427, 447, 448, 456, 485 through 487, 489, 510, 539, 541, 560, 567, 568, 601 and 602.

Senate district twenty-two is composed of Bernalillo county precinct 31; McKinley county precincts 7 through 13 and 15; Rio Arriba county precincts 24 through 27, 29

and 30; San Juan county precincts 14 through 16 and 19; and Sandoval county precincts 7 through 10, 14 through 27, 63, 66, 75, 78, 79 and 84.

Senate district twenty-three is composed of Bernalillo county precincts 1, 20 through 22, 24, 25, 57, 80 through 82, 110 through 115, 117, 118 and 127 through 129.

Senate district twenty-four is composed of Santa Fe county precincts 24, 25, 31 through 35, 38, 39, 41, 42, 49 through 51, 56, 64, 66, 67, 74 through 78 and 86.

Senate district twenty-five is composed of Santa Fe county precincts 6 through 11, 13, 20 through 22, 26 through 30, 36, 37, 43 through 48, 52 through 55, 57, 63, 65, 68, 69, 71 and 81 through 83.

Senate district twenty-six is composed of Bernalillo county precincts 23, 26 through 29, 33 through 40, 47, 48, 55, 70, 119, 120, 134 and 136.

Senate district twenty-seven is composed of Chaves county precincts 1 through 7, 9, 10, 41, 44 through 46 and 73; Curry county precincts 6 through 9, 29, 31 and 36; De Baca county; Lea county precincts 2 and 3; and Roosevelt county.

Senate district twenty-eight is composed of Catron county; Grant county; and Socorro county precincts 1 through 14, 16 through 23, 25 and 26.

Senate district twenty-nine is composed of Bernalillo county precinct 93; and Valencia county precincts 2, 3, 5 through 8, 13 through 16, 19, 21 through 28, 31, 32 and 34 through 36.

Senate district thirty is composed of Cibola county precincts 1 through 3, 7 through 13 and 16 through 25; McKinley county precinct 30; Socorro county precincts 15 and 24; and Valencia county precincts 1, 4, 9 through 12, 17, 18, 20, 29, 33, 37 and 39 through 41.

Senate district thirty-one is composed of Doña Ana county precincts 6, 7, 9 through 15, 71, 73, 74, 76, 77, 80, 81, 97, 104, 114 and 120.

Senate district thirty-two is composed of Chaves county precincts 14 through 16, 23 through 25, 31 through 34, 42, 43, 51, 52, 61 through 63, 71, 72, 81 through 83, 90 through 94 and 101 through 104; Eddy county precincts 2, 3 and 41; and Otero county precinct 11.

Senate district thirty-three is composed of Chaves county precincts 11 through 13, 21, 22, 35, 36, 84 and 85; Lincoln county precincts 2, 7 through 13, 15, 17, 18 and 20; and Otero county precincts 10, 12 through 14, 19, 20, 24 through 33 and 37 through 40.

Senate district thirty-four is composed of Doña Ana county precinct 75; Eddy county precincts 17, 18, 26 through 30, 34, 35 and 45; and Otero county precincts 1 through 9, 15 through 18, 21 through 23, 34 through 36 and 41.

Senate district thirty-five is composed of Doña Ana county precincts 3, 18, 19, 107 and 108; Hidalgo county; Luna county; and Sierra county.

Senate district thirty-six is composed of Doña Ana county precincts 1, 2, 4, 20 through 22, 24 through 26, 28 through 30, 32, 33, 35, 36, 41 through 44, 60, 63, 83 through 89, 92 through 95, 99, 100, 109, 111 and 115.

Senate district thirty-seven is composed of Doña Ana county precincts 5, 27, 34, 59, 61, 62, 64 through 70, 72, 91, 102, 103, 105, 106, 110, 112, 113 and 116 through 119.

Senate district thirty-eight is composed of Doña Ana county precincts 8, 16, 17, 23, 31, 37 through 40, 45 through 58, 78, 79, 82, 90, 96, 98 and 101.

Senate district thirty-nine is composed of Bernalillo county precinct 551; Lincoln county precincts 1, 3 through 6, 14, 16, 19 and 21; San Miguel county precincts 13, 16 and 18 through 24; Santa Fe county precincts 12, 14, 17, 62, 70, 72, 80 and 88; Torrance county precincts 1 through 4, 7 through 12, 14 and 16; and Valencia county precincts 30 and 38.

Senate district forty is composed of Sandoval county precincts 37, 39 through 44, 47 through 50, 58, 60, 61, 65, 67 through 69, 71, 73, 74 and 80 through 82.

Senate district forty-one is composed of Eddy county precincts 9 through 16, 32, 33 and 44; and Lea county precincts 11, 12, 14 through 17, 31, 32, 34 through 36, 51 through 55, 61, 62 and 71 through 74.

Senate district forty-two is composed of Chaves county precinct 47; Eddy county precincts 1, 4 through 8, 19 through 21, 23, 25, 36 through 40 and 42; and Lea county precincts 10, 13, 18, 20 through 30, 33 and 41 through 44.

## ANNOTATIONS

**Compiler's notes.** — The districts set out in the 2002 Senate Redistricting Act, Sections 2-8D-6 through 2-8D-49 NMSA 1978, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. January 25, 2012). The redistricting plan embodied in this section was adopted by that court. The section number was assigned by the compiler.

## ARTICLE 9 Sessions

## **2-9-1. Regular sessions; designation.**

The regular session of the legislature convening in January, 1966, shall be designated as the "second session of the twenty-seventh legislature." Thereafter, the regular session of the legislature convening in the year immediately following every general election shall be designated as the "first session" of the next consecutively numbered legislature, and the regular session convening in the even-numbered year next following such session shall be designated as the "second session" of that same legislature.

**History:** 1953 Comp., § 2-10-1, enacted by Laws 1966, ch. 1, § 1.

### **ANNOTATIONS**

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies § 43.

Power of legislature or branch thereof as to time of assembly and length of session, 56 A.L.R. 721.

Power of executive to sign bill after adjournment, or during recess of legislature, 64 A.L.R. 1468.

81A C.J.S. States § 48.

## **ARTICLE 10**

### **Legislative Education Study Committee**

#### **2-10-1. Creation of committee; members; number; appointment; term of office.**

A permanent joint interim committee of the legislature to be called the "legislative education study committee" is created. The committee shall be composed of ten members, four from the senate and six from the house. The house education committee and the senate education committee shall be represented. The committee members shall be appointed for two-year terms which shall expire on the first day of each odd-year session. The term of any member shall terminate when such member ceases to be a member of the legislature. Members shall be appointed by the committees' committee of the senate or, if the appointment is made in the interim, by the president pro tempore after consultation with and agreement of a majority of the members of the committees' committee, and the speaker of the house of representatives; provided, however, minority members shall be appointed by the speaker only from recommendations made by the minority floor leader although the speaker shall retain the right to reject any such recommendations. Vacancies on the committee shall be filled for the unexpired term by the respective appointing authority which makes the original appointments and subject

to the same recommendations, provided that members shall be appointed from the respective houses, parties and committees, so as to maintain the same number of house and senate members and the same representation of standing committees as provided in the original appointments. Each of the two parties having the largest number of members in the legislature shall be represented on the committee in proportion to the membership of each such party in each house; provided that in the computation, major fractions shall be counted as whole numbers, and in no event shall either of the two major parties have less than one member from each house.

The officers shall be appointed for terms coterminous with their membership on the committee. Each office shall be alternated between the respective houses each two years. For the terms beginning in 1979, the chairman shall be a house member and the vice chairman, if any, shall be a senate member. The appointing authority of each house shall exercise its appointing authority by naming the chairman or vice chairman respectively on this alternating basis.

No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

**History:** 1953 Comp., § 2-11-6, enacted by Laws 1971, ch. 287, § 1; 1978, ch. 21, § 13; 1979, ch. 267, § 1.

#### **ANNOTATIONS**

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies §§ 51 to 54.

81A C.J.S. States § 55.

#### **2-10-2. Director of the legislative education study committee staff.**

The position of "director of the legislative education study committee staff" is created. The director shall be hired by the committee and shall serve at its pleasure. The director shall be provided with the necessary office space, supplies, equipment and assistants by the committee. His salary shall be set by the committee.

**History:** 1953 Comp., § 2-11-7, enacted by Laws 1971, ch. 287, § 2; 1979, ch. 267, § 2; 1982, ch. 97, § 1.

#### **ANNOTATIONS**

**This section is not continuing appropriation;** a further, specific appropriation is necessary to authorize payment of public funds to pay for staff and other necessary support for interim activities of the legislature as allowed by N.M. Const., art. IV, § 30. 1985 Op. Att'y Gen. No. 85-02.

### **2-10-3. Duties of the committee.**

The committee shall:

A. direct the director in his work for the committee;

B. conduct a continuing study of all education in New Mexico, the laws governing such education and the policies and costs of the New Mexico educational system provided that such studies shall not duplicate studies conducted by the board of educational finance, nor shall such studies, related to higher education, deal with any subject other than the training of certified teaching personnel in post-secondary institutions;

C. recommend changes in laws relating to education, if any are deemed desirable, and draft and present to the legislature any legislation necessary; and

D. make a full report of its findings and recommendations for the consideration of each odd-year session on or before the tenth day thereof, and may make additional reports as it deems necessary.

**History:** 1953 Comp., § 2-11-8, enacted by Laws 1971, ch. 287, § 3; 1979, ch. 267, § 3.

#### **ANNOTATIONS**

**Cross references.** — For financing of state educational institutions, see 6-17-1 NMSA 1978 et seq.

### **2-10-4. Compensation of members of the committee; staff travel.**

The members of the committee shall receive reimbursement for expenses for attending meetings or traveling in connection with their duties in the same manner and under the same policies as the legislative council. The director and his assistants shall be reimbursed for their travel expenses in the same manner and amount as other state employees.

**History:** 1953 Comp., § 2-11-9, enacted by Laws 1971, ch. 287, § 4; 1979, ch. 267, § 4.

#### **ANNOTATIONS**

**Cross references.** — For per diem and mileage payments to members, officers and employees of the legislative branch for out-of-state travel on business of interim committees, see 2-1-9 NMSA 1978.

For constitutional limitations on per diem and mileage payments to members of the legislature, see N.M. Const., art. IV, § 10.

For provisions of the Per Diem and Mileage Act, see 10-8-1 NMSA 1978 et seq.

**Legislature intended 2-1-9 NMSA 1978 to govern certain reimbursements** to members of the legislative education study committee, the legislative council and the legislative finance committee. 1979 Op. Att'y Gen. No. 79-40.

## **2-10-5. Expenditure of funds.**

Payments from funds appropriated for the use of the legislative education study committee shall be made on vouchers signed by the chairman or his designee subject to committee approval.

**History:** 1953 Comp., § 2-11-10, enacted by Laws 1971, ch. 287, § 5; 1979, ch. 267, § 5; 1982, ch. 97, § 2.

# **ARTICLE 11**

## **Lobbyist Regulation**

### **2-11-1. Short title.**

Chapter 2, Article 11 NMSA 1978 may be cited as the "Lobbyist Regulation Act".

**History:** 1953 Comp., § 2-13-1, enacted by Laws 1977, ch. 261, § 1; 1993, ch. 46, § 18.

### **ANNOTATIONS**

**The 1993 amendment**, effective July 1, 1993, substituted "Chapter 2, Article 11 NMSA 1978" for "This act".

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 51 Am. Jur. 2d Lobbying §§ 7, 12 to 14.

Validity and construction of state and municipal enactments regulating lobbying, 42 A.L.R.3d 1046.

82 C.J.S. Statutes § 7.

### **2-11-2. Definitions.**

As used in the Lobbyist Regulation Act:

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

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

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

D. "lobbying" means attempting to influence:

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

(2) an official action;

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

(1) an individual who appears on his own behalf in connection with legislation or an official action;

(2) any elected or appointed officer of the state or its political subdivisions or an Indian tribe or pueblo acting in his official capacity;

(3) an employee of the state or its political subdivisions, specifically designated by an elected or appointed officer of the state or its political subdivision, who appears before a legislative committee or in a rulemaking proceeding only to explain the effect of legislation or a rule on his agency or political subdivision, provided the elected or appointed officer of the state or its political subdivision keeps for public inspection, and files with the secretary of state, such designation;

(4) any designated member of the staff of an elected state official, provided the elected state official keeps for public inspection and files with the secretary of state such designation;

(5) a member of the legislature, the staff of any member of the legislature or the staff of any legislative committee when addressing legislation;

(6) any witness called by a legislative committee or administrative agency to appear before that legislative committee or agency in connection with legislation or an official action;

(7) an individual who provides only oral or written public testimony in connection with a legislative committee or in a rulemaking proceeding and whose name and the interest on behalf of which he testifies have been clearly and publicly identified; or

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

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

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

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

I. "political contribution" means a gift, subscription, loan, advance or deposit of any money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for the purpose of influencing a primary, general or statewide election, including a constitutional or other question submitted to the voters, or for the purpose of paying a debt incurred in any such election;

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

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

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

**History:** 1953 Comp., § 2-13-2, enacted by Laws 1977, ch. 261, § 2; 1985, ch. 16, § 1; 1993, ch. 46, § 19; 1994, ch. 85, § 1.

## ANNOTATIONS

**The 1994 amendment**, effective May 18, 1994, in Subsection E, in the introductory paragraph, inserted "the specific purpose", "or organization", "on a substantial or regular basis", and "'Lobbyist' does not include", and redesignated the paragraphs and subparagraphs, adding Paragraphs (1), (3), (4), (7), and (8), and deleting former

Subparagraph (3)(d) relating to individuals who appear before a legislative committee to testify; and made stylistic changes throughout the section.

**The 1993 amendment**, effective July 1, 1993, rewrote this section to the extent that a detailed comparison is impracticable.

### **2-11-3. Registration statement to be filed; contents; modification to statement.**

A. In the month of January prior to each regular session or before any service covered by the Lobbyist Regulation Act commences, any individual who is initially employed or retained as a lobbyist shall register with the secretary of state by paying an annual filing fee of fifty dollars (\$50.00) for each of the lobbyist's employers and by filing a single registration statement under oath on a prescribed form showing:

- (1) the lobbyist's full name, permanent business address and business address while lobbying; and
- (2) the name and address of each of the lobbyist's employers.

B. No registration fee shall be required of individuals receiving only reimbursement of personal expenses and no other compensation or salary for lobbying. No expenditure statement required by Section 2-11-6 NMSA 1978 shall be required if the lobbyist anticipates making or incurring and makes or incurs no expenditures or political contributions under Section 2-11-6 NMSA 1978. The lobbyist shall indicate in the lobbyist's registration statement whether those circumstances apply to the lobbyist.

C. No more than five days after a registration is filed, the secretary of state shall publish the registration statement on the secretary of state's lobbying disclosure web site.

D. For each employer listed in Paragraph (2) of Subsection A of this section, the lobbyist shall file the following information:

- (1) a full disclosure of the sources of funds used for lobbying;
- (2) a written statement from each of the lobbyist's employers authorizing the lobbyist to lobby on the employer's behalf;
- (3) a brief description of the matters in reference to which the service is to be rendered; and
- (4) the name and address of the person, if other than the lobbyist or the lobbyist's employer, who will have custody of the accounts, bills, receipts, books, papers and documents required to be kept under the provisions of the Lobbyist Regulation Act.

E. For each succeeding year that an individual is employed or retained as a lobbyist by the same employer, and for whom all the information disclosed in the initial registration statement remains substantially the same, the lobbyist shall file a simple annual registration renewal in January and pay the fifty-dollar (\$50.00) filing fee for each of the lobbyist's employers together with a short, abbreviated prescribed form for renewal.

F. Whenever there is a modification of the facts required to be set forth by this section or there is a termination of the lobbyist's employment as a lobbyist before the end of the calendar year, the lobbyist shall notify the secretary of state within one month of such occurrence and shall furnish full information concerning the modification or termination. If the lobbyist's employment terminates at the end of a calendar year, no separate termination report need be filed.

History: 1953 Comp., § 2-13-3, enacted by Laws 1977, ch. 261, § 3; 1985, ch. 16, § 2; 1993, ch. 46, § 20; 2015, ch. 56, § 1.

### ANNOTATIONS

**The 2015 amendment**, effective June 19, 2015, increased the lobbyist registration and renewal filing fees and required the secretary of state to publish lobbyist registration statements online; in the introductory sentence of Subsection A, after "fee of", deleted "twenty-five dollars (\$25.00)" and added "fifty dollars (\$50.00)"; in Subsection B, after "indicate in", deleted "his" and added "the lobbyist's", and after "apply to", deleted "him" and added "the lobbyist"; added Subsection C and redesignated the succeeding subsections accordingly; in Subsection D, Paragraph (4), after "lobbyist or", deleted "his" and added "the lobbyist's"; and in Subsection E, after "pay the", deleted "twenty-five-dollar (\$25.00)" and added "fifty-dollar (\$50.00)".

**The 1993 amendment**, effective July 1, 1993, rewrote this section to the extent that a detailed comparison is impracticable.

**Special session.** — A lobbyist registered during the regular session of the legislature must again register if a special session is called. 1987 Op. Att'y Gen. No. 87-12 (issued prior to 1993 amendment).

## 2-11-4. Recompiled.

### ANNOTATIONS

**Recompilations.** — Laws 1993, ch. 46, § 24 recompiled and amended 2-11-4 NMSA 1978, relating to enforcement of the Lobbyist Regulation Act, as 2-11-8.2 NMSA 1978, effective July 1, 1993.

## 2-11-5. Other powers and duties of attorney general not limited or restricted.

The powers and duties of the attorney general pursuant to the Lobbyist Regulation Act shall not be construed to limit or restrict the exercise of his power or the performance of his duties.

**History:** 1953 Comp., § 2-13-5, enacted by Laws 1977, ch. 261, § 5.

## ANNOTATIONS

**Cross references.** — For general duties of attorney general, see 8-5-2 NMSA 1978.

### **2-11-6. Expenditure report to be filed; contents; reporting periods.**

A. Each lobbyist or lobbyist's employer who makes or incurs expenditures or political contributions for the benefit of or in opposition to a state legislator or candidate for the state legislature, a state public officer or candidate for state public office, a board or commission member or state employee who is involved in an official action affecting the lobbyist's employer or in support of or in opposition to a ballot issue or pending legislation or official action shall file an expenditure report with the secretary of state on a prescribed form or in an electronic format approved by the secretary of state and published by the secretary of state in accordance with Section 2-11-7 NMSA 1978. The expenditure report shall include a sworn statement that sets forth:

(1) the cumulative total of the expenditures made or incurred by the employer or lobbyist during the covered reporting period, indicating the amount spent and a description of the expenditure. The list shall be separated into the following categories:

- (a) meals and beverages;
- (b) other entertainment expenditures;
- (c) gifts; and
- (d) other expenditures;

(2) each political contribution made, identified by amount, date and name of the candidate or ballot issue supported or opposed; and

(3) the names, addresses and occupations of other contributors and the amounts of their separate political contributions if the lobbyist or lobbyist's employer delivers directly or indirectly separate contributions from those contributors in excess of five hundred dollars (\$500) in the aggregate for each election to a candidate, a campaign committee or anyone authorized by a candidate to receive funds on the candidate's behalf.

B. If the expenditure report is filed electronically, the report shall be electronically authenticated by the lobbyist or the lobbyist's employer using an electronic signature as

prescribed by the secretary of state in conformance with the Electronic Authentication of Documents Act [Chapter 14, Article 15 NMSA 1978] and the Uniform Electronic Transactions Act [Chapter 14, Article 16 NMSA 1978]. For the purposes of the Lobbyist Regulation Act, a report that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the lobbyist or the lobbyist's employer that is required to file the report.

C. In identifying expenditures pursuant to the provisions of Paragraph (1) of Subsection A of this section, any individual expenditure that is more than the threshold level established in the Internal Revenue Code of 1986, as amended, that must be reported separately to claim a business expense deduction, as published by the secretary of state, shall be identified by amount, date, purpose, type of expenditure and name of the person who received or was benefited by the expenditure; provided, in the case of special events, including parties, dinners, athletic events, entertainment and other functions, to which all members of the legislature, to which all members of either house or any legislative committee or to which all members of a board or commission are invited, expenses need not be allocated to each individual who attended, but the date, location, name of the body invited and total expenses incurred shall be reported.

D. The reports required pursuant to the provisions of the Lobbyist Regulation Act shall be filed:

(1) by January 15 for all expenditures and political contributions made or incurred during the preceding year and not previously reported;

(2) within forty-eight hours for each separate expenditure made or incurred during a legislative session that was for five hundred dollars (\$500) or more; and

(3) by May 1 for all expenditures and political contributions made or incurred through April 25 of the current year and not previously reported.

E. A lobbyist's personal living expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer need not be reported.

F. A lobbyist or lobbyist's employer shall obtain and preserve all records, accounts, bills, receipts, books, papers and documents necessary to substantiate the financial statements required to be made under the Lobbyist Regulation Act for a period of two years from the date of filing of the report containing such items. When the lobbyist is required under the terms of the lobbyist's employment to turn over any such records to the lobbyist's employer, responsibility for the preservation of them as required by this section and the filing of reports required by this section shall rest with the employer. Such records shall be made available to the secretary of state or attorney general upon written request.

G. A lobbyist's employer who also engages in lobbying shall also comply with the provisions of this section.

H. An organization of two or more persons, including an individual who makes any representation as being an organization, that within one calendar year expends funds in excess of two thousand five hundred dollars (\$2,500) not otherwise reported under the Lobbyist Regulation Act to conduct an advertising campaign for the purpose of lobbying shall register with the secretary of state within forty-eight hours after expending two thousand five hundred dollars (\$2,500). Such registration shall indicate the name of the organization and the names, addresses and occupations of any of its principals, organizers or officers and shall include the name of any lobbyist or lobbyist's employer who is a member of the organization. Within fifteen days after a legislative session, the organization shall report the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses and occupations of the contributors, to the secretary of state on a prescribed form.

History: 1953 Comp., § 2-13-6, enacted by Laws 1977, ch. 261, § 6; 1985, ch. 16, § 3; 1993, ch. 46, § 21; 1994, ch. 84, § 2; 1995, ch. 153, § 20; 1997, ch. 112, § 6; 2005, ch. 330, § 1; 2015, ch. 56, § 2.

## ANNOTATIONS

**Cross references.** — For the Internal Revenue Code of 1986, see Title 26 of the United States Code.

**The 2015 amendment**, effective June 19, 2015, amended the reporting requirements for each lobbyist and lobbyist's employer; in the introductory paragraph of Subsection A, after the second occurrence of "secretary of state", added "and published by the secretary of state in accordance with Section 2-11-7 NMSA 1978"; in Subsection A, Paragraph (1), after "incurred", deleted "separated into categories that identify the total separate amounts spent on" and added "by the employer or lobbyist during the covered reporting period indicating the amount spent and a description of the expenditure. The list shall be separated into the following categories"; in Subsection G, deleted "Any" and added "A", after "provisions of", deleted "the Lobbyist Regulation Act" and added "this section"; and in Subsection H, after "individual who", deleted "holds himself out" and added "makes any representation", and after "as" added "being".

**The 2005 amendment**, effective June 17, 2005, deleted the former provision in Subsection B, which provided that the report shall be subscribed and sworn to in an independent affidavit that shall be delivered to the secretary of state within forty-eight hours after the expenditure report is electronically filed, and also provided that the report shall be electronically authenticated using an electronic signature and that a report that is electronically authenticated shall be deemed to have been subscribed and sworn to by the lobbyist or lobbyist's employer.

**The 1997 amendment**, effective June 20, 1997, substituted "forty-eight hours" for "ten days after a legislative session ends" and made a minor stylistic change in Paragraph D(2) and substituted "through April 25 of the current year and not previously reported" for "since the January filing" in Paragraph D(3).

**The 1995 amendment**, effective June 16, 1995, substituted "report" for "statement" in the section heading; in Subsection A, inserted "an expenditure report" and the language beginning "or in an" and ending "shall include" in the introductory language, deleted a provision relating to dating contributions made by mail in Paragraph (2), and inserted "and the amounts of their separate political contributions" following "contributors" in Paragraph (3); added Subsection B and redesignated the remaining subsections accordingly; in Subsection D, deleted "semiannually" following "filed" and rewrote Paragraphs (1), (2), and (3); in Subsection F, added "records" following "preserve all" and substituted "report" for "statement" near the end of the first sentence; and in Subsection H, deleted "and expenditures" following "contributors" and made a minor stylistic change.

**The 1994 amendment**, effective May 18, 1994, in Subsection A, deleted "a ballot issue or" following "public office," and inserted "or in support of or in opposition to a ballot issue or pending legislation or official action" near the end of the introductory paragraph; and added Paragraph A(3) and Subsection G.

**The 1993 amendment**, effective July 1, 1993, rewrote this section to the extent that a detailed comparison is impracticable.

## **2-11-7. Registration and expenditure statement; preservation as public record; online reports.**

A. Each registration and expenditure statement as required by the Lobbyist Regulation Act shall be archived and accessible on the secretary of state's lobbyist disclosure web site for a period of at least ten years from the date of filing as a public record, open to public inspection at any reasonable time. Unless an action or prosecution is pending that requires preserving the report, it may be destroyed ten years after the date of filing.

B. Lobbyist registrations and expenditure statements shall be kept and maintained on the secretary of state's lobbyist disclosure web site and shall be available in searchable and downloadable formats. The secretary of state shall update the web site no less than monthly throughout the year and as expeditiously as possible when the legislature is in session.

C. For the purposes of this section, "accessible" means, with respect to the secretary of state's lobbyist disclosure web site, that all records are easily searchable, sortable and downloadable by the public.

History: 1953 Comp., § 2-13-7, enacted by Laws 1977, ch. 261, § 7; 1993, ch. 46, § 22; 2015, ch. 56, § 3.

## ANNOTATIONS

**Cross references.** — For inspection of public records, see 14-2-1 NMSA 1978 et seq.

For the Public Records Act, see Chapter 14, Article 3 NMSA 1978.

**The 2015 amendment**, effective June 19, 2015, required lobbyist registration and expenditure statements to be posted online on the secretary of state's web site; in the catchline, added "online reports"; designated the existing language in the section as Subsection A; in Subsection A, after "shall be", deleted "preserved by" and added "archived and accessible on", after "secretary of", deleted "state" and added "state's lobbyist disclosure web site", after "period of", deleted "two" and added "at least ten", and after "destroyed", deleted "two" and added "ten"; and added Subsections B and C.

**The 1993 amendment**, effective July 1, 1993, substituted "expenditure statement" for "statement of expenditures" in the section heading and in the first sentence; deleted "lobbyist's" preceding "registration" in the first sentence; and added the second sentence.

### **2-11-8. Contingent fees prohibited in lobbying the legislative branch of state government.**

No person shall accept employment as a lobbyist and no lobbyist's employer shall employ a lobbyist for compensation contingent in whole or in part upon the outcome of the lobbying activities before the legislative branch of state government or the approval or veto of any legislation by the governor.

**History:** 1953 Comp., § 2-13-8, enacted by Laws 1977, ch. 261, § 8.

#### **2-11-8.1. Restrictions on campaign activities and contributions.**

A. No lobbyist may serve as a campaign chairman, treasurer or fundraising chairman for a candidate for the legislature or a statewide office.

B. It is unlawful during the prohibited period for any lobbyist or lobbyist's employer to contribute to or act as an agent or intermediary for political contributions to or arrange for the making of political contributions to the campaign funds of any statewide elected official or legislator or any candidate for those offices.

C. For purposes of this section, "prohibited period" is that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on:

(1) the day the session ends for:

(a) any statewide elected official or candidate for statewide office except the governor; and

(b) a legislator or any candidate for the legislature; and

(2) the twentieth day following the adjournment of the regular or special session for the governor or candidate for governor.

**History:** 1978 Comp., § 2-11-8.1, enacted by Laws 1993, ch. 46, § 23; 1995, ch. 153, § 21.

### ANNOTATIONS

**The 1995 amendment**, effective June 16, 1995, designated a portion of Subsection C as Paragraph (2), added "for the governor or candidate for governor" in that paragraph, and added Paragraph (1).

**Contributions to candidates for federal office.** — The prohibition against legislative session fund raising in Section 2-11-8.1 NMSA 1978 does not apply to contributions to candidates for federal office based on the doctrine of federal preemption and because Section 2-11-8.1 NMSA 1978 does not regulate contributions to candidates for federal office. 2007 Op. Att'y Gen. No. 07-01.

### **2-11-8.2. Compliance with act; enforcement of act; binding arbitration; civil penalties.**

A. The secretary of state shall advise and seek to educate all persons required to perform duties pursuant to the Lobbyist Regulation Act of those duties. This includes advising all registered lobbyists at least annually of the Lobbyist Regulation Act's deadlines for submitting required reports. The secretary of state, in consultation with the attorney general, shall issue advisory opinions, when requested to do so in writing, on matters concerning the Lobbyist Regulation Act. All prescribed forms prepared shall be clear and easy to complete.

B. The secretary of state may conduct thorough examinations of reports and initiate investigations to determine whether the Lobbyist Regulation Act has been violated. Additionally, any person who believes that a provision of that act has been violated may file a written complaint with the secretary of state. The secretary of state shall adopt procedures for issuing advisory opinions, processing complaints and notifications of violations.

C. The secretary of state shall at all times seek to ensure voluntary compliance with the provisions of the Lobbyist Regulation Act. If the secretary of state determines that a provision of that act for which a penalty may be imposed has been violated, the

secretary of state shall by written notice set forth the violation and the fine imposed and inform the person that he has ten working days to provide a written explanation, under penalty of perjury, stating any reason the violation occurred. If a timely explanation is filed and the secretary of state determines that good cause exists, the secretary of state may by a written notice of final action partially or fully waive any fine imposed. A written notice of final action shall be sent by certified mail.

D. If the person charged disputes the secretary of state's determination, including an advisory opinion, the person charged may request binding arbitration within ten working days of the date of the final action. Any penalty imposed shall be due and payable within ten working days of the notice of final action. No additional penalty shall accrue pending issuance of the arbitration decision. Fines paid pursuant to a notice of final action that are subsequently reduced or dismissed shall be reimbursed with interest within ten working days after the filing of the arbitration decision with the secretary of state. Interest on the reduced or dismissed portion of the fine shall be the same as the rate of interest earned by the secretary of state's escrow account to be established by the department of finance and administration.

E. An arbitration hearing shall be conducted by a single arbitrator selected within ten days by the person against whom the penalty has been imposed from a list of five arbitrators provided by the secretary of state. Neither the secretary of state nor a person subject to the Lobbyist Regulation Act, Campaign Reporting Act [1-19-25 through 1-19-36 NMSA 1978] or Financial Disclosure Act [10-16A-1 through 10-16A-8 NMSA 1978] may serve as an arbitrator. Arbitrators shall be considered to be independent contractors, not public officers or employees, and shall not be paid per diem and mileage.

F. The arbitrator may impose any penalty and take any action the secretary of state is authorized to take. The arbitrator shall state the reasons for his decision in a written document that shall be a public record. The decision shall be final and binding. The decision shall be issued and filed with the secretary of state within thirty days of the conclusion of the hearing. Unless otherwise provided for in this section, or by rule or regulation adopted by the secretary of state, the procedures for the arbitration shall be governed by the Uniform Arbitration Act [44-7A-1 through 44-7A-32 NMSA 1978]. No arbitrator shall be subject to liability for actions taken pursuant to this section.

G. Any person who files a report after the deadline imposed by the Lobbyist Regulation Act, or any person who files a false or incomplete report, shall be liable for and shall pay to the secretary of state fifty dollars (\$50.00) per day for each regular working day after the time required for the filing of the report until the complete report is filed, up to a maximum of five thousand dollars (\$5,000).

H. The secretary of state may refer a matter to the attorney general or a district attorney for a civil injunctive or other appropriate order or enforcement.

**History:** 1953 Comp., § 2-13-4, enacted by Laws 1977, ch. 261, § 4; amended and recompiled as § 2-11-8.2 NMSA 1978 by Laws 1993, ch. 46, § 24; 1995, ch. 153, § 22; 1997, ch. 112, § 7.

### ANNOTATIONS

**The 1997 amendment,** effective June 20, 1997, rewrote Subsections D, E, and F.

**The 1995 amendment,** effective June 16, 1995, inserted "a provision of that" in the second sentence of Subsection B; rewrote Subsections C, D, and E; in Subsection F, inserted "impose any penalty and" in the first sentence and "and filed with the secretary of state" in the third sentence; and in Subsection G, deleted "statement or" preceding "report" in three places and deleted "at or from the time initially required for the filing".

**The 1993 amendment,** effective July 1, 1993, rewrote this section to the extent that a detailed comparison is impracticable.

### 2-11-9. Penalties.

In addition to any other penalties that may be assessed, any person who knowingly and willfully violates any of the provisions of the Lobbyist Regulation Act shall be punished by a fine of up to five thousand dollars (\$5,000) and may have his lobbyist registration revoked or his lobbying activities enjoined for up to three years.

**History:** 1953 Comp., § 2-13-9, enacted by Laws 1977, ch. 261, § 9; 1993, ch. 46, § 25.

### ANNOTATIONS

**The 1993 amendment,** effective July 1, 1993, rewrote this section which read "Any person who knowingly violates any of the provisions of the Lobbyist Regulation Act is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000)."

## ARTICLE 12 Oversight Committees

### 2-12-1 to 2-12-4. Repealed.

### ANNOTATIONS

**Repeals.** — Laws 2003, ch. 223, § 3, effective June 20, 2003, repealed 2-12-1 to 2-12-4 NMSA 1978, relating to industrial and agricultural finance authority oversight committee. For provisions of former sections, see the 2002 NMSA 1978 on the *NMONESOURCE.COM*.

## **2-12-5. Mortgage Finance Authority Act oversight committee; powers and duties.**

The Mortgage Finance Authority Act oversight committee created by the provisions of Subsection W of Section 58-18-5 NMSA 1978 shall have the power to:

A. determine and monitor the actual distribution of funds derived by the authority from bond issues and other activities of the authority under the provisions of the Mortgage Finance Authority Act [Chapter 58, Article 18 NMSA 1978], both on a geographical basis and on the basis of the actual distribution to participants in its programs;

B. monitor the authority in its control of the issuance of mortgage commitments;

C. meet on a regular basis to receive and evaluate periodic reports from the authority as to its enforcement of the provisions of the Mortgage Finance Authority Act and the regulations adopted pursuant thereto; and

D. require the authority to document the need to the oversight committee regarding the issuance of any bonds.

**History:** 1978 Comp., § 58-18-5.1, enacted by Laws 1981, ch. 173, § 1; recompiled as 1978 Comp., § 2-12-5.

## **2-12-6 to 2-12-10. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 2003, ch. 223, § 3 repealed 2-12-6 to 2-12-10 NMSA 1978, relating to the DWI oversight task force, effective June 20, 2003. For provisions of former sections, see the 2002 NMSA 1978 on *NMONESOURCE.COM*.

## **ARTICLE 13**

### **Legislative Health and Human Services Committee**

#### **2-13-1. Creation of committee; members; appointment; terms.**

There is created a permanent joint interim committee of the legislature to be called the "legislative health and human services committee". The committee shall be composed of eight members. The legislative council shall appoint four members from the house of representatives and four members from the senate. At the time of making the appointment, the legislative council shall designate the chairman and vice chairman of the committee. Members shall be appointed so as to give the two major political parties in each house the same proportionate representation on the committee as

prevails in each house; provided, in no event shall either of such parties have less than one member from each house on the committee. Members may be removed from the committee by the legislative council, at the request of the committee chairman, for nonattendance according to council policy. Vacancies on the committee, however caused, may be filled by the legislative council, or the council may reduce the size of the committee by not making replacement appointments and in such case need not readjust party representation. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

**History:** Laws 1989, ch. 349, § 1.

## ANNOTATIONS

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies §§ 51 to 54.

81A C.J.S. States § 55.

### **2-13-2. Duties of the committee.**

The committee shall conduct a continuing study of the programs, agencies, policies, issues and needs relating to health and human services including review and study of the statutes, constitutional provisions, regulations and court decisions governing such programs, agencies and issues. The committee shall also study the full continuum of programs and services available and needed for children, families and the aging population. The committee shall make an annual report of its findings and recommendations and recommend any necessary legislation to each session of the legislature.

**History:** Laws 1989, ch. 349, § 2.

## ANNOTATIONS

**Temporary provisions.** — Laws 2007, ch. 114, § 1, effective June 15, 2007, established a task force to design cultural competence curricula for each health-related education field offered in New Mexico's public post-secondary educational institutions.

### **2-13-3. Subcommittees.**

Subcommittees shall be created only by majority vote of all members appointed to the committee and with the prior approval of the legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full committee in advance of such meeting or expenditure, and the approval shall be shown in the minutes of the committee.

**History:** Laws 1989, ch. 349, § 3.

### **2-13-3.1. Disabilities concerns subcommittee created; membership; appointment; duties; report.**

A. The "disabilities concerns subcommittee" is created as a permanent subcommittee of the legislative health and human services committee. The subcommittee shall be composed of six members. The New Mexico legislative council shall appoint three members from the house of representatives and three members from the senate. At the time of making the appointments, the legislative council shall designate the chair of the subcommittee. Members shall be appointed so as to give the two major political parties in each house the same proportionate representation on the committee as prevails in each house; provided that in no event shall either of such parties have less than one member from each house on the subcommittee.

B. Members of the disabilities concerns subcommittee may be removed from the subcommittee by the legislative council, at the request of the subcommittee chair, for nonattendance according to legislative council policy. Vacancies on the subcommittee, however caused, may be filled by the legislative council, or the legislative council may reduce the size of the subcommittee by not making replacement appointments and, in such case, need not readjust party representation. No action shall be taken by the subcommittee if a majority of the total membership from either house on the subcommittee rejects such action.

C. The disabilities concerns subcommittee shall conduct a continuing study of the programs, agencies, policies, issues and needs relating to individuals with disabilities, including review and study of the statutes, constitutional provisions, regulations and court decisions governing these programs, agencies and issues. The subcommittee shall also study the full continuum of programs and services available and needed for individuals with disabilities.

D. By October 1 of each year, the subcommittee shall make a report of its findings and recommendations and recommend any necessary legislation to the legislative health and human services committee.

**History:** Laws 2010, ch. 24, § 1.

### **ANNOTATIONS**

**Effective dates.** — Laws 2010, ch. 24 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 19, 2010, 90 days after the adjournment of the legislature.

### **2-13-4. Report.**

The committee shall make a report of its findings and recommendations for the consideration of each session of the legislature. The report and suggested legislation shall be made available to the legislative council on or before December 15 preceding each session.

**History:** Laws 1989, ch. 349, § 4.

### **2-13-5. Staff.**

The staff for the committee shall be provided by the legislative council service.

**History:** Laws 1989, ch. 349, § 5.

## **ARTICLE 14**

### **Interim Activities of Chief Clerks of House of Representatives and Senate**

#### **2-14-1. Legislative findings.**

The legislature finds that the administration of the legislative branch of state government is becoming increasingly complex. This complexity and the ever-increasing demands on legislative officials necessitate maintaining during the interim the offices of chief clerk of the house of representatives and chief clerk of the senate with necessary support staff.

**History:** 1978 Comp., § 2-14-1, enacted by Laws 1993, ch. 3, § 1.

#### **2-14-2. Chief clerks; interim activities authorized.**

A. The chief clerk of the house of representatives and other necessary support staff, not to exceed five full-time equivalents, including the chief clerk, are authorized to operate during the interim between regular legislative sessions to provide support to members of the house of representatives.

B. The chief clerk of the senate and other necessary support staff, not to exceed five full-time equivalents, including the chief clerk, are authorized to operate during the interim between regular legislative sessions to provide support to members of the senate.

C. During the interim, the chief clerks shall report to the legislative council. In addition to the duties established in Section 2-14-3 NMSA 1978, the legislative council may establish other interim duties for the chief clerks. Except as provided in Section 2-14-3 NMSA 1978, any duty established by the legislative council shall not overlap or conflict with any duty established for the legislative council service, the legislative

education study committee, the legislative finance committee or any other committee created by statute or by the legislative council.

**History:** 1978 Comp., § 2-14-2, enacted by Laws 1993, ch. 3, § 2.

### **2-14-3. Interim duties of the chief clerks.**

During the interim, the chief clerks elected by the house of representatives and the senate shall perform the following duties:

A. perform clerical duties, including assistance with general correspondence, within guidelines of the legislative council;

B. conduct pre-session training for the staffs of the respective houses;

C. perform pre-session duties necessary to assist the legislature in preparing for session in accordance with directions of the legislative council and in coordination with the legislative council service;

D. perform routine legislative requests for constituents regarding the availability of and access to existing programs and services of state government within guidelines established by the legislative council;

E. maintain accurate inventories of the property of the respective houses in cooperation with the legislative council service;

F. perform public outreach functions necessary to educate the public about the legislature and the respective houses, including coordinating with the state department of public education and post-secondary educational institutions on educational program development regarding the legislative branch of government;

G. serve on the coordinating group of the integrated legislative information system; and

H. receive requests from members of the house of representatives or senate for changes affecting the members' office spaces in the state capitol prior to the request being presented to the building subcommittee of the legislative council.

**History:** 1978 Comp., § 2-14-3, enacted by Laws 1993, ch. 3, § 3.

### **2-14-4. Partisan political activities; prohibition.**

The chief clerks and their respective staffs shall not engage in partisan political activity during the course or in the performance of their duties.

**History:** 1978 Comp., § 2-14-4, enacted by Laws 1993, ch. 3, § 4.

# **ARTICLE 15**

## **Governmental Ethics Oversight Committee**

### **2-15-1. Governmental ethics oversight committee created; termination.**

The joint interim "governmental ethics oversight committee" is created. The committee shall function from the date of its appointment until the first day of December prior to the first session of the forty-third legislature.

**History:** Laws 1993, ch. 46, § 46.

### **2-15-2. Membership; appointment; vacancies.**

A. The governmental ethics oversight committee shall be composed of fourteen voting members, consisting of four legislators and ten public members, and four advisory members, consisting of two legislators from each house.

B. The members of the house of representatives shall be appointed by the speaker of the house of representatives. The members of the senate shall be appointed by the committees' committee of the senate or, if the senate appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the committees' committee. Legislator voting and advisory members shall be appointed annually from each house after consultation with the floor leaders of the two major political parties so as to give the two major political parties in each house equal representation on the committee.

C. Four public members shall be appointed to the committee by the speaker of the house of representatives, four public members shall be appointed by the president pro tempore of the senate, one public member shall be appointed by the governor and one public member shall be appointed by the chief justice of the New Mexico supreme court. The public members shall be appointed in such a manner so that neither major political party has a majority of members on the committee.

D. The speaker of the house of representatives and the president pro tempore of the senate shall each designate one co-chairman of the committee.

E. Vacancies on the committee shall be filled by appointment in the same manner as the original appointments.

F. The public members of the committee shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978] plus reimbursement for reasonable actual expenses.

**History:** Laws 1993, ch. 46, § 47.

### **2-15-3. Powers and duties.**

A. After its appointment, the governmental ethics oversight committee shall hold one organizational meeting to develop a workplan and budget for the ensuing interim. The workplan and budget shall be submitted to the New Mexico legislative council for approval. Upon approval of the workplan and budget by the New Mexico legislative council, the committee shall:

(1) examine the statutes, constitutional provisions and regulations governing governmental ethics in New Mexico;

(2) monitor and oversee the implementation of the legislative directives pertaining to financial disclosure, campaign reporting, lobbyist regulation and governmental conduct and financial disclosure laws;

(3) review issues related to statewide and legislative campaign expenditure and contribution limitations, public financing of political campaigns, nepotism, legislative expense reimbursement and extension of campaign reporting requirements to various political subdivisions of the state; and

(4) make recommendations relating to the adoption of rules and legislation, if any are found to be necessary.

B. The committee shall regularly receive testimony from the secretary of state and the attorney general relating to the implementation of the legislative directives and shall review any proposed rules, regulations or reporting forms prior to adoption.

**History:** Laws 1993, ch. 46, § 48.

### **2-15-4. Subcommittees.**

Subcommittees shall be created only by majority vote of all members appointed to the governmental ethics oversight committee and with the prior approval of the New Mexico legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the members of the full committee in advance of such meeting or expenditure and the approval shall be shown in the minutes of the committee.

**History:** Laws 1993, ch. 46, § 49.

### **2-15-5. Report.**

The governmental ethics oversight committee shall make a report of its findings and recommendations for the consideration of the second session of the forty-first

legislature, the first and second sessions of the forty-second legislature and the first session of the forty-third legislature. The report and suggested legislation shall be made available to the New Mexico legislative council on or before December 15 preceding each session.

**History:** Laws 1993, ch. 46, § 50.

## **2-15-6. Staff.**

The staff for the governmental ethics oversight committee shall be provided by the legislative council service. The committee may employ outside consultants.

**History:** Laws 1993, ch. 46, § 51.

## **2-15-7. Interim legislative ethics committee; creation; appointment.**

A. An interim legislative ethics committee, appointed by the legislative council, is created. Members of the legislative council shall be allowed to serve on the interim legislative ethics committee.

B. All matters arising in the interim pertaining to legislative ethics shall be referred to this special interim legislative ethics committee.

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

D. The New Mexico legislative council shall name the interim ethics committee at the beginning of each interim, but shall convene the committee only upon the receipt of a complaint, a request for an advisory opinion or a referral.

**History:** Laws 1993, ch. 46, § 52.

## **2-15-8. Interim legislative ethics committee; duties.**

The interim legislative ethics committee is authorized to:

A. issue advisory opinions on the interpretation and enforcement of ethical principles as applied to the legislature;

B. investigate complaints from another member of the legislature or a member of the public alleging misconduct of a legislator;

C. investigate referrals made to the co-chairmen of the New Mexico legislative council from the attorney general, the secretary of state or a district attorney;

D. hire special counsel or independent hearing officers as necessary; and

E. make recommendations to the respective houses by the end of the first full week of the next convened regular session regarding proposed sanctions for ethical misconduct.

**History:** Laws 1993, ch. 46, § 53.

## **2-15-9. Interim legislative ethics committee; procedures; confidentiality.**

A. Except as provided in this section, the New Mexico legislative council shall develop procedures to carry out the provisions of this section, in accordance with the existing procedures in the house and senate rules.

B. A member of the interim legislative ethics committee shall be ineligible to participate in any matter relating directly to that member's conduct. In any such case, a substitute member to the committee shall be appointed from the same house from the same political party by the appropriate appointing authority. A member may seek to be disqualified from any matter brought before the ethics committee on the grounds that the member cannot render a fair and impartial decision. Disqualification must be approved by a majority vote of the remaining members of the committee. In any such case, a substitute member to the committee shall be appointed from the same political party as provided in this section.

C. The interim legislative ethics committee is authorized to issue advisory opinions on matters relating to ethical conduct during the interim. Any question relating to the interpretation and enforcement of ethical principles as applied to the legislature may be submitted in writing to the New Mexico legislative council by a legislator describing a real or hypothetical situation and requesting an advisory opinion establishing an appropriate standard of ethical conduct for that situation. The question shall be referred to the joint interim legislative ethics committee.

D. To initiate any action during the interim on alleged misconduct, any legislator or member of the public may file a written, sworn complaint setting forth, with specificity, the facts alleged to constitute unethical conduct. A complaint shall be filed with the New Mexico legislative council. Upon receipt of the complaint, the cochairmen [co-chairmen] shall convene the interim legislative ethics committee.

E. The interim legislative ethics committee shall maintain rules of confidentiality, unless the legislator against whom a complaint is filed waives the rules or any part of them in writing. The confidentiality rules shall include the following provisions:

(1) the complainant, the committee and its staff shall not publicly disclose any information relating to the filing or investigation of a complaint, including the identity of

the complainant or respondent, until after a finding of probable cause has been made that a violation has occurred;

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

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

**History:** Laws 1993, ch. 46, § 54.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

### **2-15-10. Criminal sanctions.**

If the interim legislative ethics committee determines that in addition to recommending that sanctions be imposed by the respective house on the member, the conduct involves criminal activity, the interim ethics committee may refer the matter to the district attorney of the first judicial district, the district attorney of the judicial district where the member resides or the attorney general.

**History:** Laws 1993, ch. 46, § 55.

### **2-15-11. Staff.**

The staff for the interim ethics committee shall be provided by the legislative council service, but the committee is authorized to hire such special counsel or independent hearing officers as necessary to assist the legislative ethics committee when it is convened.

**History:** Laws 1993, ch. 46, § 56.

### **2-15-12. New Mexico legislative council; budget.**

The New Mexico legislative council shall annually provide an amount sufficient to carry out the duties and mandate of the interim [legislative] ethics committee.

**History:** Laws 1993, ch. 46, § 57.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not part of the law.

# ARTICLE 16

## Revenue Stabilization and Tax Policy Committee

### 2-16-1. Revenue stabilization and tax policy committee created.

There is created a permanent joint interim legislative committee which shall be known as the "revenue stabilization and tax policy committee".

**History:** Laws 1994, ch. 90, § 1.

### 2-16-2. Membership; appointment; vacancies.

A. The revenue stabilization and tax policy committee shall be composed of eighteen members. Nine members of the house of representatives shall be appointed by the speaker of the house of representatives and nine members of the senate shall be appointed by the committees' committee of the senate or, if the senate appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the committees' committee.

B. Members shall be appointed from each house so as to give the two major political parties in each house the same proportional representation on the committee as prevails in each house; however, in no event shall either party have less than one member from each house on the committee. Vacancies on the committee shall be filled by appointment in the same manner as the original appointments. If a regular member is going to be absent from a committee meeting, the regular member may designate a legislator from the same house and party to serve in the regular member's place at the meeting if the member notifies the chairman of the committee of the anticipated absence and notifies the designee at least twenty-four hours before the committee meeting. The regular member shall select the designee from a list of potential designees appointed by the appointing authority for each house. The list shall be maintained in the offices of the legislative council service. The chairman and vice chairman of the committee shall be designated by the New Mexico legislative council.

C. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

**History:** Laws 1994, ch. 90, § 2; 2003, ch. 223, § 1.

### ANNOTATIONS

**The 2003 amendment**, effective June 20, 2003, inserted "revenue stabilization and tax policy" near the beginning of Subsection A; and in Subsection B, added the last three sentences and substituted "designated by the New Mexico legislative council" for "elected by the committee".

### **2-16-3. Duties.**

After its appointment, the committee shall hold one organizational meeting to develop a workplan and budget for the ensuing interim. The workplan and budget shall be submitted to the legislative council for approval. Upon approval of the workplan and budget by the legislative council, the committee shall examine the statutes, constitutional provisions, regulations and court decisions governing revenue stabilization and tax policy in New Mexico and recommend legislation or changes if any are found to be necessary to each session of the legislature.

**History:** Laws 1994, ch. 90, § 3.

### **2-16-4. Subcommittees.**

Subcommittees shall be created only by majority vote of all members appointed to the committee and with the prior approval of the legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full committee in advance of such meeting or expenditure, and the approval shall be shown in the minutes of the committee.

**History:** Laws 1994, ch. 90, § 4.

### **2-16-5. Report.**

The committee shall make a report of its findings and recommendations for the consideration of each session of the legislature. The report and suggested legislation shall be made available to the legislative council on or before December 15 preceding each session.

**History:** Laws 1994, ch. 90, § 5.

### **2-16-6. Staff.**

The staff for the committee shall be provided by the legislative council service.

**History:** Laws 1994, ch. 90, § 6.

## **ARTICLE 17**

### **Welfare Reform Oversight Committee**

#### **2-17-1. Welfare reform oversight committee created; termination.**

The joint interim legislative "welfare reform oversight committee" is created. The committee shall function from the date of its appointment until December 15 prior to the first session of the forty-ninth legislature.

**History:** Laws 1998, ch. 8, § 21 and Laws 1998, ch. 9, § 21; 2003, ch. 311, § 1; 2003, ch. 432, § 1.

## **ANNOTATIONS**

**The 2003 amendment**, effective April 10, 2003, substituted "forty-ninth legislature" for "forty-sixth legislature".

Laws 2003, ch. 311, § 1, effective April 8, 2003, and Laws 2003, ch. 432, § 1, effective April 10, 2003, enacted identical amendments to this section. The section was set out as amended by Laws 2003, ch. 432, § 1. See 12-1-8 NMSA 1978.

### **2-17-2. Membership; appointment; vacancies.**

A. The welfare reform oversight committee shall be composed of twelve members. The New Mexico legislative council shall appoint six members from the house of representatives and six members from the senate. At the time of making the appointment, the legislative council shall designate the chairman and vice chairman of the committee.

B. Members shall be appointed from each house so as to give the two major political parties in each house the same proportionate representation on the committee as prevails in each house; however, in no event shall either party have less than one member from each house on the committee. At the request of the committee chairman, members may be removed from the committee by the New Mexico legislative council for nonattendance according to council policy. Vacancies on the committee, however caused, may be filled by the legislative council, or the council may reduce the size of the committee by not making replacement appointments and in that case need not readjust party representation.

C. An action shall not be taken by the committee if a majority of the total membership from either house on the committee rejects that action.

**History:** Laws 1998, ch. 8, § 22 and Laws 1998, ch. 9, § 22.

### **2-17-3. Duties.**

A. After its appointment, the welfare reform oversight committee shall hold one organizational meeting to develop a work plan and budget for the ensuing interim. The work plan and budget shall be submitted to the New Mexico legislative council for approval. Upon approval of the work plan and budget by the legislative council, the committee shall:

(1) examine the statutes, constitutional provisions and rules governing welfare reform in New Mexico;

(2) monitor and oversee the implementation of the New Mexico Works Act [Chapter 27, Article 2B NMSA 1978];

(3) review issues related to welfare reform, including job training programs and related contracts; cash assistance; child care, transportation and other job-related services; and other issues that arise because of the devolution of the federal welfare programs to the states; and

(4) make recommendations relating to the adoption of rules and legislation, if any are found to be necessary.

B. The committee shall regularly receive testimony from the secretaries of human services; labor; children, youth and families; and health and the superintendent of public instruction on issues arising from the implementation of the New Mexico Works Act and shall review proposed rules, schedules and formulae before adoption.

**History:** Laws 1998, ch. 8, § 23 and Laws 1998, ch. 9, § 23.

#### **2-17-4. Subcommittees.**

Subcommittees shall be created only by majority vote of all members appointed to the welfare reform oversight committee and with the prior approval of the New Mexico legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. Any meeting or expenditure of a subcommittee shall be approved by the full committee in advance of that meeting or expenditure, and the approval shall be shown in the minutes of the committee.

**History:** Laws 1998, ch. 8, § 24 and Laws 1998, ch. 9, § 24.

#### **2-17-5. Reports.**

The committee shall make reports of its findings and recommendations for the consideration of the first and second sessions of the forty-fourth legislature and the first and second sessions of the forty-fifth legislature. The reports and suggested legislation shall be made available to the New Mexico legislative council on or before December 15 preceding each session.

**History:** Laws 1998, ch. 8, § 25 and Laws 1998, ch. 9, § 25.

#### **2-17-6. Staff.**

The staff for the welfare reform oversight committee shall be provided primarily by the legislative council service but the legislative council service may request the assistance of the legislative finance committee staff at the direction of the welfare reform oversight committee.

**History:** Laws 1998, ch. 8, § 26 and Laws 1998, ch. 9, § 26.

## **ARTICLE 18**

### **Corrections Oversight Committee**

#### **2-18-1. Corrections oversight committee created; termination.**

There is created a joint interim legislative committee that shall be known as the "corrections oversight committee". The committee shall function from the date of its appointment until the first day of December prior to the first session of the forty-seventh legislature.

**History:** Laws 2000, ch. 106, § 2.

#### **2-18-2. Membership; appointment; vacancies.**

A. The corrections oversight committee shall be composed of eight members. Four members of the house of representatives shall be appointed by the speaker of the house of representatives. Four members of the senate shall be appointed by the senate committees' committee or, if the senate appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the senate committees' committee.

B. Members shall be appointed from each house so as to give the two major political parties in each house equal representation on the corrections oversight committee as prevails in each house. However, in no event shall either party have less than one member from each house on the committee. The speaker of the house of representatives and the president pro tempore of the senate shall each appoint a co-chairman of the committee.

C. A vacancy on the corrections oversight committee shall be filled by appointment in the same manner as the original appointment.

D. No action shall be taken by the corrections oversight committee if a majority of the total membership from either house on the committee rejects the action.

**History:** Laws 2000, ch. 106, § 3.

#### **2-18-3. Duties; subpoena power; cooperation.**

A. After its appointment, the corrections oversight committee shall hold one organizational meeting to develop a work plan and budget for the ensuing interim. The work plan and budget shall be submitted to the New Mexico legislative council for approval.

B. Upon approval of the work plan and budget by the New Mexico legislative council, the corrections oversight committee shall:

(1) oversee implementation of the recommendations set forth in the January 14, 2000 document entitled "The Consultants' Report on Prison Operations in New Mexico Correctional Institutions";

(2) assess the feasibility of expanding community corrections programming as a means to reduce the inmate population;

(3) monitor other issues related to the operation of public and private correctional facilities; and

(4) recommend legislation or changes, if they are found to be necessary, to the legislature.

C. [Vetoed by Governor March 7, 2000.]

D. The corrections department and every other state agency and political subdivision of the state shall, upon request, furnish and make available to the corrections oversight committee documents, material or information requested by the members of the committee or its staff.

**History:** Laws 2000, ch. 106, § 4.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

The term "subpoena power," in the section heading, references the provisions of Subsection C that were vetoed by the governor.

### **2-18-4. Subcommittees.**

A. Subcommittees shall be created only by majority vote of all members appointed to the corrections oversight committee and with the prior approval of the New Mexico legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee.

B. All meetings and expenditures of a subcommittee shall be approved by the full corrections oversight committee in advance of subcommittee meetings or expenditures, and the approval shall be shown in the minutes of the committee.

**History:** Laws 2000, ch. 106, § 5.

### **2-18-5. Report.**

The corrections oversight committee shall make a report of its findings and recommendations for the consideration of the first session of the forty-fifth legislature; the second session of the forty-fifth legislature; the first session of the forty-sixth legislature; the second session of the forty-sixth legislature; and the first session of the forty-seventh legislature. The reports and suggested legislation shall be made available to the New Mexico legislative council on or before December 15 preceding each session.

**History:** Laws 2000, ch. 106, § 6.

### **2-18-6. Staff.**

The staff for the corrections oversight committee shall be provided by the legislative council service. The legislative council service may also contract for staff services for the corrections oversight committee.

**History:** Laws 2000, ch. 106, § 7.

## **ARTICLE 19**

### **Tobacco Settlement Revenue Oversight Committee**

#### **2-19-1. Tobacco settlement revenue oversight committee created; membership; duties.**

A. There is created a joint interim legislative committee that shall be known as the "tobacco settlement revenue oversight committee".

B. The tobacco settlement revenue oversight committee shall be composed of six members. Three members of the house of representatives shall be appointed by the speaker of the house of representatives and three members of the senate shall be appointed by the committees' committee of the senate or, if the senate appointments are made in the interim, those members shall be appointed by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the committees' committee. Members shall be appointed from each house so as to give the two major political parties in each house the same proportionate

representation on the tobacco settlement revenue oversight committee as prevails in each house.

C. The tobacco settlement revenue oversight committee shall:

(1) monitor the use of tobacco settlement revenue and meet on a regular basis to receive and review evaluations of programs receiving funding from tobacco settlement revenues;

(2) prepare recommendations, based on its program evaluation process, of program funding levels for the next fiscal year. The recommendations shall be made available to the New Mexico legislative council and the legislative finance committee on or before December 15 preceding each session; and

(3) make recommendations as necessary for changes in legislation regarding use of the tobacco settlement revenue.

D. The staff for the tobacco settlement revenue oversight committee shall be provided by the legislative council service.

**History:** Laws 2000 (2nd S.S.), ch. 9, § 4.

## **ARTICLE 20**

### **Military and Veterans' Affairs Committee**

#### **2-20-1. Creation of interim military and veterans' affairs committee; members; appointment; terms; voting.**

A. There is created a joint interim committee of the legislature to be called the "military and veterans' affairs committee". The committee shall be composed of eight voting members.

B. The New Mexico legislative council shall appoint four members from the house of representatives and four members from the senate. At the time of making the appointment, the New Mexico legislative council shall designate the chair and vice chair of the committee. Members shall be appointed so as to give the two major political parties in each house the same proportionate representation on the committee as prevails in each house; provided that in no event shall either of the parties have less than one member from each house on the committee.

C. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

**History:** Laws 2010, ch. 23, § 1.

## ANNOTATIONS

**Effective dates.** — Laws 2010, ch. 23 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 19, 2010, 90 days after the adjournment of the legislature.

### **2-20-2. Duties of the military and veterans' affairs committee; staff; subcommittees; reporting.**

A. The military and veterans' affairs committee shall conduct meetings in several geographically dispersed areas of the state and shall conduct hearings related to military issues and veterans' issues. The committee shall make an annual report and recommend any necessary legislation to each session of the legislature. The committee shall request necessary action to the federal congress, the United States department of veterans affairs and the United States department of defense.

B. The staff of the committee shall be provided by the legislative council service.

C. Subcommittees shall be created only by majority vote of all the members appointed to the committee and with the prior approval of the New Mexico legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full committee in advance of the meeting or expenditure, and the approval shall be shown in the minutes of the committee.

History: Laws 2010, ch. 23, § 2.

## ANNOTATIONS

**Effective dates.** — Laws 2010, ch. 23 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 19, 2010, 90 days after the adjournment of the legislature.