

## 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

**Cross-references.** - For provision that representative not residing in his district deemed to have resigned, see 2-7C-4 NMSA 1978.

For provision that senator not residing in his district deemed to have resigned, see 2-8C-3 NMSA 1978.

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

**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.

**"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.

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.

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. Schools, 111 N.M. 495, 806 P.2d 1085 (Ct. App. 1991).

**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. 47-10.

**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.

Before the 1977 amendment of this section, a member of the legislature who resigned his position as a member of such legislature could not be legally employed by the construction industries commission (now the construction industries division of the general services department) during the term of office for which he was elected. 1968 Op. Att'y Gen. No. 68-121.

**Applicability to employees of state university.** - The decision of the Court of Appeals in State ex rel. Stratton v. Roswell Indep. Schools, 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.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 72 Am. Jur. 2d States, Territories, and Dependencies § 56.

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**

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

**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.

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. Schools, 111 N.M. 495, 806 P.2d 1085 (Ct. App. 1991).

**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.

**Applicability to employees of state university.** - The decision of the Court of Appeals in State ex rel. Stratton v. Roswell Indep. Schools, 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.

### **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 to 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**

**Cross-references.** - For rule of procedure relating to injunctions, see Rule 1-066 SCRA 1986.

### **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 as per diem expense the sum of seventy-five dollars (\$75.00) for each day's attendance during each session and twenty-five cents (\$.25) per mile for each mile traveled in going to and returning from the seat of government by the usual traveled route once each session.

**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.

### **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 Per Diem and Mileage Act to legislators unless specifically made applicable, see 10-8-6 NMSA 1978.

**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. Public Employees Retirement Bd.*, 118 N.M. 507, 882 P.2d 548 (Ct. App. 1994).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 72 Am. Jur. 2d States, Territories, and Dependencies § 56.

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 shall receive per diem at the rate of seventy-five dollars (\$75.00) a day 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 privately owned automobiles at the rate of twenty-five cents (\$.25) a mile or by privately owned aircraft at the rate of thirty cents (\$.30) per air mile on official business of the committee within the state, by the shortest, most direct route.

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; or

(2) mileage at the same rates established for in-state travel if private automobiles or 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; 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.

### ANNOTATIONS

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

**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. Public Employees Retirement Bd.*, 118 N.M. 507, 882 P.2d 548 (Ct. App. 1994).

**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 §§ 48, 49, 52.

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**

**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**

**Cross-references.** - For distribution of statutes, see 12-1-4 and 34-4-1 NMSA 1978.

**Compiler's note.** - The title of Laws 1927, ch. 122, provides 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.

### **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.

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**

**Conservancy Act.** - See 73-14-1 NMSA 1978 and notes thereto.

**Election Code.** - The 1927 Election Code, referred to in next-to-last paragraph of this section, 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

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

**Revenue stabilization, tax policy, telecommunications and business development committee.** - Laws 1993, ch. 334, §§ 1 through 7, effective April 8, 1993, creates the revenue stabilization, tax policy, telecommunications and business development committee, composed of members appointed from the house of representatives and the senate, which shall function from the date of its appointment until December 15 prior to the second session of the forty-first legislature. The committee is to examine the statutes, constitutional provisions, regulations, and court decisions governing revenue stabilization, tax policy, telecommunications and business development in New Mexico and recommend legislation or changes to the second session of the forty-first legislature. The committee may under certain conditions create subcommittees and is to submit a report on its findings and recommendations. A staff is to be provided by the legislative council service, and an appropriation is made for salaries and expenses.

**Health care task force.** - Laws 1993, ch. 337, §§ 1 through 6, effective April 8, 1993, creates the health care task force, composed of legislative and non-legislative members, to function from the date of its appointment until December 1 prior to the second session of the forty-first legislature. The task force is to bring together the various groups working on issues related to health care reform to facilitate the development and implementation of a comprehensive health care delivery system, receive briefings or testimony from the New Mexico health policy commission, the Robert Wood Johnson foundation grant staff, the national health care reform task force and other states, and certain experts, receive and compare data on the different elements of the various health care models, and generally establish a process to make recommendations to the legislature on access, availability, quality and cost issues

relating to the development of a comprehensive health care delivery system. The task force may under certain conditions create subcommittees and is to report its findings and recommendations for the consideration of the second session of the forty-first legislature. A staff is to be provided by the legislative council service.

**Science, technology, energy and defense conversion committee.** - Laws 1994, ch. 31, §§ 1 to 4, effective March 1, 1994, create the science, technology, energy and defense conversion joint interim legislative committee composed of eight members. The committee shall examine the statutes, constitutional provisions, regulations and court decisions governing the areas of science, technology, energy and defense conversion activities in New Mexico and recommend legislation or changes if any are found to be necessary to the first session of the forty-second legislature.

**Dual taxation study task force.** - Laws 1994, ch. 32, §§ 1 to 4, effective March 2, 1994, create the dual taxation study task force composed of eighteen voting members representing the state and various Indian tribal organizations. The task force shall study the state and tribal dual taxation in New Mexico, the laws governing dual taxation and the socioeconomic and fiscal impacts on the state and on Indian nations, tribes and pueblos located in the state, and shall submit a written report to the second session of the forty-second legislature and the governing bodies of the Indian nations, tribes and pueblos in New Mexico stating the findings, conclusions and proposals for beneficial changes in law or ordinances that developed from the work of the task force. The task force shall function from the date of its creation until the first day of December prior to the second session of the forty-second legislature.

**Health care task force.** - Laws 1994, ch. 62, §§ 1 to 6, effective March 4, 1994, create the joint interim legislative health care task force composed of twelve voting legislative members and ten nonvoting, advisory, nonlegislative members. The task force shall bring together the various groups working on issues related to health care reform to facilitate the development and implementation of a comprehensive health care delivery system for New Mexico. The task force shall recommend legislation or changes if any are found to be necessary to the first and second sessions of the forty-second legislature. The task force shall function from the date of its appointment until the first day of December prior to the second session of the forty-second legislature.

**Public school transportation task force.** - Laws 1994, ch. 120, §§ 1 to 7, effective March 8, 1994, create the joint interim public school transportation task force composed of twelve members. The task force shall examine the statutes, constitutional provisions, regulations and court decisions governing public school transportation in New Mexico, including those provisions related to transportation funding formula, the school bus inspection program, transportation costs and the administration of the public school transportation program, and shall recommend legislation or changes if any are found to be necessary to the first session of the forty-second legislature. The task force shall function from the date of its appointment until the first day of December prior to the first session of the forty-second legislature.

**Capital outlay committee.** - Laws 1994, ch. 133, §§ 1 to 7, effective March 8, 1994, create the joint interim legislative capital outlay committee, composed of ten members. The committee shall meet with local government officials during the interim to receive testimony on capital outlay projects and priorities of the local governments on capital needs, shall coordinate its meetings and hearings with the New Mexico finance authority oversight committee and provide such assistance and recommendations to the finance authority oversight committee as the oversight committee may request, and shall report its recommendations on priorities for capital outlay needs, including recommending legislation, to the New Mexico finance authority, the New Mexico finance authority oversight committee and to the first session of the forty-second legislature. The committee shall function from the date of its appointment until the first day of December prior to the first session of the forty-second legislature.

**New Mexico horizons task force.** - Laws 1994, ch. 140, §§ 1 to 8, effective March 9, 1994, create the New Mexico horizons task force, composed of twenty-two total members: six legislative members, four executive branch members, and eight members of the public. The task force shall in cooperation with the governor's office of policy and planning, study and review strategic planning processes in other states and determine the value such processes would have in New Mexico, recommend to the legislature and the governor a comprehensive strategic planning process for New Mexico that involves the greatest number of citizens of the state from all sectors of the economy and from all geographic areas in the state in the goal setting for the state, in coordination with the legislative finance committee, the legislative education study committee and the department of finance and administration, review and assess how performance-based budgeting and other budgeting processes can assist in implementation of any strategic plan developed for the state, and shall undertake other activities and make other recommendations related to strategic planning as deemed necessary by the task force. The task force shall function from the date of its appointment until December 31 prior to the first session of the forty-second legislature.

**Tax study committee.** - Laws 1994, ch. 140, § 5, effective March 9, 1994, provides that the co-chairmen of the legislative council, in consultation with the governor, shall appoint a tax study committee composed of five public members who are experts in the field of tax policy and tax law. The committee shall examine the manner and subjects of taxation and the foundations and goals of current and recommended tax policy, and shall review the strategic planning considerations of the New Mexico horizons task force and shall report its findings and recommendations, including proposed bill drafts, to the members of the appropriate interim or special legislative committee, the legislative council and the governor prior to the commencement of the forty-third legislature.

**Low-income housing trust task force.** - Laws 1994, ch. 146, §§ 4 to 8, effective March 9, 1994, create the low-income housing trust task force composed of twelve members, including eight public members. The task force shall examine statutes, constitutional provisions, regulations and court decisions governing the delivery of affordable housing in New Mexico, shall examine how organizations and institutions in the housing industry can contribute to the fund, and shall recommend legislation or

changes if any are found to be necessary to the first session of the forty-second legislature. The task force shall function from the date of its appointment until the first day of December prior to the first session of the forty-second legislature.

**Election Code Recodification Committee.** - Laws 1995, ch. 55, §§ 1 to 6, effective April 5, 1995, create a joint interim legislative committee known as the "Election Code recodification committee" functioning until December 1, 1995. The committee shall examine and review the statutes, constitutional provisions, regulations and court decisions governing the Election Code in New Mexico and recommend legislation or changes if necessary to the second session of the forty-second legislature. The committee shall make a report of its findings and recommendations for the consideration of the second session of the forty-second legislature prior to December 15, 1995.

**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 §§ 44, 50 to 54.

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

**Appropriations.** - Laws 1991, ch. 1, § 7, effective January 24, 1991, appropriates \$2,067,975 from the general fund to the legislative council service for the eightieth fiscal year for personal services and other expenses, \$382,000 for travel expenses of legislators other than legislative council members, on legislative council business, committee travel, staff and other expenses, \$275,000 for pre-session expenditures and contracts, supplies and personnel for interim session preparation, and \$100,000 for interim contingencies associated with relocation of the legislative council service, the legislative finance committee, the legislative education study committee, and the senate rules committee.

Laws 1991, ch. 1, § 10, effective January 24, 1991, appropriates \$42,350 from the general fund to the legislative council service for the eightieth fiscal year for the interim duties of the senate rules committee.

Laws 1991, ch. 1, § 11, effective January 24, 1991, appropriates \$100,000 from the general fund to the legislative council service for the eightieth fiscal year for the reapportionment and redistricting committee.

Laws 1991, ch. 1, § 12, effective January 24, 1991, provides that the amounts set out in Sections 7, 8, and 9 of the act are for informational purposes only and may be freely transferred among categories.

Laws 1991, ch. 261, § 15, effective April 5, 1991, amends Laws 1987, ch. 180, § 2 to substitute "seventy-eighth and seventy-ninth fiscal years, the total receipts to the capitol buildings repair fund in the eightieth fiscal year and one-half of the total receipts to the capitol buildings repair fund in the eighty-first fiscal year" for "seventy-eight through eighty-first fiscal years" as the allocation of three-fourths of the total receipts to the capitol buildings repair fund.

Laws 1991 (1st S.S.), ch. 1, § 2, effective September 12, 1991, amends Laws 1987, ch. 180, § 2, as amended.

Laws 1992, ch. 1, § 10, effective January 30, 1992, appropriates \$46,585 from the general fund to the legislative council service for the interim duties of the senate rules committee.

Laws 1992, ch. 1, § 7, effective January 30, 1992, appropriates \$2,159,456 from the general fund to the legislative council service for the eighty-first fiscal year for personal services and other expenses, \$332,000 for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, committee

travel, staff and other expenses, and \$275,000 for pre-session expenditures and contracts, supplies, and personnel for interim session preparation.

Laws 1992, ch. 1, § 11, effective January 30, 1992, provides that the amounts set out in Sections 7, 8, and 9 of the act are for informational purposes only and may be freely transferred among categories.

Laws 1992, ch. 94, § 7, effective March 10, 1992, appropriates \$4,768,256 from the operating reserve to the legislative council service upon certification by the legislative council service director that the cash flow is insufficient to pay the contracted-for amounts for the capitol renovation and that the required payments cannot feasibly be delayed until the next regular legislative session, provides that the legislative council service shall reimburse the operating reserve fund semi-annually beginning in the eighty-first fiscal year upon receipt by the legislative council service of its share of the proceeds of the capitol buildings repair fund until the loan is repaid, and provides that unexpended or unencumbered balances from the receipts of the capitol buildings repair fund remaining at the end of the eighty-third fiscal year shall revert to the capitol buildings repair fund.

Laws 1993, ch. 1, § 7, effective January 28, 1993, appropriates \$2,419,738 from the general fund to the legislative council service for the eighty-second fiscal year for personal services and other expenses, \$382,000 for travel expenses of legislators other than legislative council members, on legislative council business, for committee travel, staff, and other expenses, \$302,500 for pre-session expenditures and contracts, supplies, and personnel for interim session preparation, and \$50,000 for the society of legislative clerks and secretaries host committee to perform functions necessary to prepare for a national clerks and secretaries meeting.

Laws 1993, ch. 1, § 11, effective January 1, 1993, provides that the amounts set out in Sections 7, 8, and 9 of the Act are for informational purposes only and may be freely transferred among categories.

Laws 1993, ch. 1, § 10, effective January 28, 1993, appropriates \$46,585 from the general fund to the legislative council service for the eighty-second fiscal year for the interim duties of the senate rules committee.

Laws 1993, ch. 366, § 2A, effective June 18, 1993, appropriates \$1,000,000 from the computer systems enhancement fund to the legislative council service for expenditure in the eighty-first through eighty-third fiscal years to implement phase two of the legislative information system.

Laws 1993, ch. 366, § 5 provides for the severability of that act if any part or application thereof is held invalid.

Laws 1994, ch. 1, § 7, effective January 24, 1994, appropriates \$2,927,400 from the general fund to the legislative council service for the eighty-third fiscal year for personal

services and other expenses, \$420,200 for travel expenses of legislators other than legislative council members, on legislative council business, for committee travel, staff, and other expenses, and \$352,300 for pre-session expenditures and for necessary contracts, supplies and personnel for interim session preparation.

Laws 1994, ch. 1, § 12, provides that the amounts set out in Sections 7, 8 and 9 of the Act are provided for informational purposes only and may be freely transferred among categories.

Laws 1994, ch. 1, § 10, effective January 24, 1994, appropriates \$46,600 from the general fund to the legislative council service for the interim duties of the senate rules committee for the eighty-third fiscal year.

Laws 1994, ch. 1, § 11, effective January 24, 1994, appropriates \$339,200 from the general fund to the legislative council service for expenditure in the eighty-third fiscal year for the operation of the house and senate chief clerks' offices, and provides that any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

Laws 1994, ch. 90, § 7, effective March 7, 1994, appropriates \$20,000 from the general fund to the legislative council service for the eighty-second and eighty-third fiscal years for the purpose of paying the salaries and expenses of the technical, legal, clerical and stenographic assistants, for necessary equipment and supplies used in carrying out the provisions of that act, which creates the revenue stabilization and tax policy committee, and for reimbursing the per diem and mileage expenses of the committee; provides that any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund; and provides that payments from the appropriation shall be made upon vouchers signed by the director of the legislative council service or his authorized representative.

Laws 1994, ch. 146, § 17, effective March 9, 1994, appropriates \$20,000 from the general fund to the legislative council service for expenditure in the eighty-second and eighty-third fiscal years for the purpose of paying the salaries and expenses of technical, legal and clerical assistants, purchasing necessary equipment and supplies for and reimbursing the per diem and mileage expenses of the low-income housing trust task force members, provide that no portion of this appropriation may be used to pay the per diem and mileage for any member or representative of the executive branch of government. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund. Payment shall be upon vouchers signed by the director of the legislative council service or his authorized representative.

Laws 1994, ch. 147, § 2A, effective March 9, 1994, appropriates \$600,000 from the computer systems enhancement fund to the legislative council service for expenditure in the eighty-third and eighty-fourth fiscal years to implement phase three of the legislative information system. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the computer systems enhancement fund.

Subsections A and B of Laws 1994, ch. 147, § 6, effective March 9, 1994, appropriate \$100,000 and \$300,000 from the general fund to the legislative council service for expenditure in the eighty-second and eighty-third fiscal years for educational seminars for the legislature on key issues facing the state and for the New Mexico horizons task force. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

Laws 1994, ch. 147, § 7B, effective March 9, 1994, appropriates \$12,000 from the general fund to the legislative council service for expenditure in the eighty-second and eighty-third fiscal years for per diem and mileage expenses of members appointed to the dual taxation task force. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

Laws 1995, ch. 1, § 7, effective January 26, 1995, appropriates \$3,226,500 from the general fund to the legislative council service for fiscal year 1996 for personal services and other expenses, \$441,200 for travel expenses of legislators other than legislative council members on legislative council business, for committee travel, staff, and other expenses, \$352,300 for pre-session expenditures and for necessary contracts, supplies and personnel for interim session preparation, and \$50,000 for the annual meeting of the western legislative conference to be held in Santa Fe in 1996 to perform such functions as necessary to prepare for the meeting.

Laws 1995, ch. 1, § 10, effective January 26, 1995, appropriates \$46,600 from the general fund to the legislative council service for the interim duties of the senate rules committee for fiscal year 1996.

Laws 1995, ch. 1, § 11, effective January 26, 1995, appropriates \$254,008 from the general fund to the legislative council service for expenditure in fiscal year 1996 for the operation of the house chief clerk's office.

Laws 1995, ch. 1, § 12, effective January 26, 1995, appropriates \$243,446 from the general fund to the legislative council service for expenditure in fiscal year 1996 for the operation of the senate chief clerk's office.

Laws 1995, ch. 1, § 13, effective January 26, 1995, appropriates \$250,000 from the general fund to the legislative council service for expenditure in fiscal years 1995 through 1997 for work on the census block boundary suggestion program.

Laws 1995, ch. 1, § 14, provides that the amounts set out in Sections 7, 8, and 9 of the Act are provided for informational purposes only and may be freely transferred among categories.

Laws 1995, ch. 223, § 1, effective June 16, 1995, appropriates \$400,000 from the general fund to the legislative council service for expenditure in fiscal year 1996 for a legislative information system.

### **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**

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

**Meaning of "this act".** - 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.

## **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**

**Compiler's note.** - 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, 15-3-1 to 15-3-17, 15-3-21 to 15-3-23, 15-3-24, 15-3-25, 15-3-31, 15-3-32, 15-4-1 to 15-4-3 and 15-5-1 to 15-5-6 NMSA 1978.

**Commissions abolished.** - 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.

### **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 word "is" near the end of the section was inserted by the compiler for purposes of clarity. The bracketed material was not enacted by the legislature and is not law.

**Compiler's note.** - 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, 15-3-3 to 15-3-6, 15-3-17 and 15-5-1 to 15-5-6 NMSA 1978.

**Commission abolished.** - For abolishment of capitol custodian commission, see 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.

### **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.

### **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.

### **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**

**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. 85-2.

### **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**

**Cross-references.** - For director serving on commission for promotion of uniformity of legislation, 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.

**Meaning of "this act".** - 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.

### **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.

### **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

**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.

### **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 to 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.

### **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 promotion of uniformity of legislation in the United States.**

There is created a "commission for the promotion of uniformity of legislation in the United States". Its membership shall consist of:

A. two members appointed by the New Mexico legislative council, who shall be members of the legislature;

B. two members of the New Mexico bar, who shall be appointed by the New Mexico legislative council, and who shall serve on the commission at their own expense;

C. the dean of the university of New Mexico law school or his designee; and

D. the director of the legislative council service who shall serve ex officio.

The members shall be known as the commissioners for the promotion of uniformity of legislation in the United States.

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

#### **ANNOTATIONS**

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 73 Am. Jur. 2d Statutes § 32.

82 C.J.S. Statutes §§ 69, 371.

#### **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**

**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.

## **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.

**Appropriations.** - Laws 1991, ch. 1, § 8, effective January 24, 1991, appropriates \$1,709,600 from the general fund to the legislative finance committee for the eightieth fiscal year for personal services and expenses.

Laws 1991, ch. 1, § 12, effective January 24, 1991, provides that the amounts set out in Sections 7, 8, and 9 of the act are for informational purposes only and may be freely transferred among categories.

Laws 1992, ch. 1, § 8, effective January 30, 1992, appropriates \$1,807,200 from the general fund to the legislative finance committee for the eighty-first fiscal year for personal services and expenses.

Laws 1992, ch. 1, § 11, effective January 30, 1992, provides that the amounts set out in Sections 7, 8, and 9 of the act are for informational purposes only and may be freely transferred among categories.

Laws 1993, ch. 1, § 8, effective January 28, 1993, appropriates \$1,918,600 from the general fund to the legislative finance committee for the eighty-second fiscal year for personal services and other expenses.

Laws 1993, ch. 1, § 11, effective January 1, 1993, provides that the amounts set out in Sections 7, 8, and 9 of the Act are for informational purposes only and may be freely transferred among categories.

Laws 1994, ch. 1, § 8, effective January 24, 1994, appropriates \$2,190,000 from the general fund to the legislative finance committee for the eighty-third fiscal year for personal services and other expenses.

Laws 1994, ch. 1, § 12 provides that the amounts set out in Sections 7, 8 and 9 of the Act are provided for informational purposes only and may be freely transferred among categories.

Laws 1995, ch. 1, § 8, effective January 26, 1995, appropriates \$2,272,600 from the general fund to the legislative finance committee for fiscal year 1996 for personal services and other expenses.

Laws 1995, ch. 1, § 14, provides that the amounts set out in Sections 7, 8 and 9 of the Act are provided for informational purposes only and may be freely transferred among categories.

**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.

**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.

**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. 85-2.

## **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.**

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.

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

#### **ANNOTATIONS**

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

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

### **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 SCRA 1986.

**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, repeals 2-5-6 NMSA 1978, relating to the expenses of the legislative finance committee.

Laws 1981, ch. 64, contains no effective date provision, but was enacted at the session which adjourned on March 21, 1981. See N.M. Const., art. IV, § 23.

## **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.

**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.

**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.

## **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 § 54.

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, and Laws 1982 (3rd S.S.), ch. 4, § 79, both repeal 2-7-1 to 2-7-88 NMSA 1978, relating to the apportionment of the house of representatives. For present provisions, see 2-7C-1 to 2-7C-78 NMSA 1978.

Laws 1982 (2nd S.S.), ch. 1, § 81, makes the act effective immediately. Approved January 16, 1982.

Laws 1982 (3rd S.S.), ch. 4, contains no effective date provision, but was enacted at the session which adjourned on June 21, 1982. See N.M. Const., art. IV, § 23.

Laws 1982 (3rd S.S.), ch. 4, § 79, purportedly also repeals 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. See case notes following 2-7C-1 NMSA 1978.

## **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, purportedly repeals 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. See case notes following 2-7C-1 NMSA 1978. For present provisions see 2-7C-1 to 2-7C-78 NMSA 1978.

Laws 1982 (3rd S.S.), ch. 4, contains no effective date provision, but was enacted at the session which adjourned on June 21, 1982. See N.M. Const., art. IV, § 23.

## **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 repeals 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 1983 Replacement Pamphlet. For present comparable provisions, see 2-7C-1 NMSA 1978 et seq.

## **ARTICLE 7C 1991 HOUSE REDISTRICTING ACT**

### **2-7C-1. Short title.**

This act [2-7C-1 to 2-7C-78 NMSA 1978] may be cited as the "1991 House Redistricting Act".

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

### **ANNOTATIONS**

**Compiler's note.** - In *Sanchez v. Anaya*, Civ. No. 82-0067M (D. N.M. Dec. 17, 1984), it was held that for a period of ten years no legislative redistricting in this state, different

from that in force or effect at the time of that judgment, shall be enforced unless the court finds that such legislative redistricting does not abridge the right to vote on account of race or color or in contravention of the provisions of the Voting Rights Act of 1965, unless the plan is submitted to the United States Department of Justice and that department does not interpose objections within 60 days. In a January 1992 letter, the United States Department of Justice gave notification that it would not interpose any objection to the redistricting plan which New Mexico submitted on January 6, 1991 (as supplemented on January 8, 10, and 13, 1991).

**Prior legislative reapportionment unconstitutional.** - The 1982 reapportionment of the New Mexico legislature, Articles 7A and 8A of Chapter 2 NMSA 1978 (now repealed), was unconstitutional. *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).

**"Votes cast formula" constitutionally impermissible.** - The "votes cast formula" in former 2-7A-6 and former 2-8A-6 NMSA 1978, used to derive precinct populations for state elections, lead to a result which was constitutionally impermissible. *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).

**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).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 25 Am. Jur. 2d Elections §§ 16 to 29, 31 to 38.

Judiciary's power to compel legislature to make apportionment of representatives or election districts, as required by constitution, 46 A.L.R. 964.

29 C.J.S. Elections § 54.

## **2-7C-2. Findings.**

A. The legislature finds that:

(1) although New Mexico has a guideline that a precinct is the building block of a district, keeping Navajo communities in the northern portion of Sandoval county precinct number 25 together with the Navajo communities in representative district sixty-nine is necessary to meet the legal and constitutional requirements of legislative reapportionment;

(2) it is possible to split Sandoval county precinct number 25 in such a manner that the portion taken out of that precinct and assigned to another precinct in representative

district sixty-five consists of a very small number of persons, and no apparent adverse effects will result from splitting Sandoval county precinct number 25 in this manner; and

(3) the new precinct boundaries established as the result of this split of Sandoval county precinct number 25 comply with the boundary requirements of the Precinct Boundary Adjustment Act [1-3-10 to 1-3-14 NMSA 1978].

B. Pursuant to the findings in Subsection A of this section, Sandoval county precinct number 25 shall be split as provided in the 1991 House Redistricting Act [2-7C-1 to 2-7C-78 NMSA 1978].

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

### **ANNOTATIONS**

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 25 Am. Jur. 2d Elections §§ 16 to 29, 31 to 38.

Judiciary's power to compel legislature to make apportionment of representatives or election districts, as required by constitution, 46 A.L.R. 964.

#### **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.

#### **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.

#### **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.

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

A. Precinct designations and boundaries used in the 1991 House Redistricting Act [2-7C-1 to 2-7C-78 NMSA 1978] are those precinct designations and boundaries established pursuant to the Precinct Boundary Adjustment Act [1-3-10 to 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. Districts.**

The redistricting of the house of representatives shall be as set out in Sections 8 through 77 [2-7C-8 to 2-7C-77 NMSA 1978] of the 1991 House Redistricting Act.

**History:** Laws 1991 (1st S.S.), ch. 2, § 7.

## **2-7C-8. Representative district one.**

Representative district one is composed of San Juan county precincts number 15, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 42, 51, 52, 57, 58 and 61.

**History:** Laws 1991 (1st S.S.), ch. 2, § 8.

### **2-7C-9. Representative district two.**

Representative district two is composed of San Juan county precincts number 22, 23, 41, 43, 44, 45, 46, 53, 54, 55, 56, 64 and 80.

**History:** Laws 1991 (1st S.S.), ch. 2, § 9.

### **2-7C-10. Representative district three.**

Representative district three is composed of Rio Arriba county precincts number 24, 28 and 29; and San Juan county precincts number 60, 62, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 78, 79, 82 and 83.

**History:** Laws 1991 (1st S.S.), ch. 2, § 10.

### **2-7C-11. Representative district four.**

Representative district four is composed of San Juan county precincts number 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19 and 81.

**History:** Laws 1991 (1st S.S.), ch. 2, § 11.

### **2-7C-12. Representative district five.**

Representative district five is composed of McKinley county precincts number 20, 21, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49.

**History:** Laws 1991 (1st S.S.), ch. 2, § 12.

### **2-7C-13. Representative district six.**

Representative district six is composed of Cibola county precincts number 5, 7, 8, 12, 13 and 15; and McKinley county precincts number 19, 24, 25, 26, 27, 28, 29, 30 and 36.

**History:** Laws 1991 (1st S.S.), ch. 2, § 13.

### **2-7C-14. Representative district seven.**

Representative district seven is composed of Valencia county precincts number 4, 5, 6, 8, 9, 10, 11, 14, 15, 16, 18, 28, 29, 30, 32, 34 and 36.

**History:** Laws 1991 (1st S.S.), ch. 2, § 14.

## **2-7C-15. Representative district eight.**

Representative district eight is composed of Valencia county precincts number 1, 2, 3, 7, 12, 17, 19, 21, 22, 23, 24, 25, 26, 27, 35 and 37.

**History:** Laws 1991 (1st S.S.), ch. 2, § 15.

## **2-7C-16. Representative district nine.**

Representative district nine is composed of McKinley county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 22 and 23; and San Juan county precincts number 1, 5, 6, 7, 16, 75, 76 and 77.

**History:** Laws 1991 (1st S.S.), ch. 2, § 16.

## **2-7C-17. Representative district ten.**

Representative district ten is composed of Bernalillo county precincts number 77, 92, 93, 94, 95, 96, 98, 99, 105, 106, 107 and 258; and Valencia county precinct number 13.

**History:** Laws 1991 (1st S.S.), ch. 2, § 17.

## **2-7C-18. Representative district eleven.**

Representative district eleven is composed of Bernalillo county precincts number 125, 131, 132, 151, 152, 153, 154, 161, 162, 163, 164, 165, 166, 197, 211, 212, 213, 214, 216, 217, 221 and 222.

**History:** Laws 1991 (1st S.S.), ch. 2, § 18.

## **2-7C-19. Representative district twelve.**

Representative district twelve is composed of Bernalillo county precincts number 54, 66, 71, 72, 73, 74, 75, 76, 88, 89, 90, 91 and 97.

**History:** Laws 1991 (1st S.S.), ch. 2, § 19.

## **2-7C-20. Representative district thirteen.**

Representative district thirteen is composed of Bernalillo county precincts number 32, 33, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52 and 53.

**History:** Laws 1991 (1st S.S.), ch. 2, § 20.

## **2-7C-21. Representative district fourteen.**

Representative district fourteen is composed of Bernalillo county precincts number 46, 47, 61, 62, 63, 64, 65, 67, 103, 104, 121, 122, 123, 124, 133, 134, 135, 224, 225 and 226.

**History:** Laws 1991 (1st S.S.), ch. 2, § 21.

### **2-7C-22. Representative district fifteen.**

Representative district fifteen is composed of Bernalillo county precincts number 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 86, 191 and 422.

**History:** Laws 1991 (1st S.S.), ch. 2, § 22.

### **2-7C-23. Representative district sixteen.**

Representative district sixteen is composed of Bernalillo county precincts number 24, 25, 26, 27, 28, 29, 30, 34, 35, 36, 37, 38, 39, 40 and 55.

**History:** Laws 1991 (1st S.S.), ch. 2, § 23.

### **2-7C-24. Representative district seventeen.**

Representative district seventeen is composed of Bernalillo county precincts number 14, 15, 181, 182, 183, 184, 185, 186, 187, 192, 193, 194, 195, 196 and 438.

**History:** Laws 1991 (1st S.S.), ch. 2, § 24.

### **2-7C-25. Representative district eighteen.**

Representative district eighteen is composed of Bernalillo county precincts number 101, 102, 215, 223, 241, 242, 243, 244, 245, 246, 251, 252, 255, 256, 351, 352, 353, 354, 355, 356, 357, 358, 381 and 382.

**History:** Laws 1991 (1st S.S.), ch. 2, § 25.

### **2-7C-26. Representative district nineteen.**

Representative district nineteen is composed of Bernalillo county precincts number 253, 254, 257, 271, 272, 273, 274, 275, 276, 277, 278, 281, 282, 283, 284, 285, 311, 312, 383 and 384.

**History:** Laws 1991 (1st S.S.), ch. 2, § 26.

### **2-7C-27. Representative district twenty.**

Representative district twenty is composed of Bernalillo county precincts number 289, 290, 293, 294, 295, 296, 297, 298, 299, 300, 328, 329, 330, 331, 332 and 333.

**History:** Laws 1991 (1st S.S.), ch. 2, § 27.

### **2-7C-28. Representative district twenty-one.**

Representative district twenty-one is composed of Bernalillo county precincts number 291, 292, 327, 463, 464, 465, 467, 473, 474, 475, 476, 477, 478, 501, 502, 531, 533 and 534.

**History:** Laws 1991 (1st S.S.), ch. 2, § 28.

### **2-7C-29. Representative district twenty-two.**

Representative district twenty-two is composed of Bernalillo county precincts number 301, 302, 303, 304, 305, 306, 544, 545, 546, 548, 550, 553, 555, 556 and 557.

**History:** Laws 1991 (1st S.S.), ch. 2, § 29.

### **2-7C-30. Representative district twenty-three.**

Representative district twenty-three is composed of Bernalillo county precincts number 423, 424, 425, 426, 427, 482, 485, 486, 487, 510, 529, 538, 539, 563, 567 and 569.

**History:** Laws 1991 (1st S.S.), ch. 2, § 30.

### **2-7C-31. Representative district twenty-four.**

Representative district twenty-four is composed of Bernalillo county precincts number 414, 415, 453, 461, 462, 466, 484, 494, 495, 496, 506, 507, 508, 509, 511, 512, 513, 514, 515, 516, 523 and 528.

**History:** Laws 1991 (1st S.S.), ch. 2, § 31.

### **2-7C-32. Representative district twenty-five.**

Representative district twenty-five is composed of Bernalillo county precincts number 341, 342, 343, 344, 345, 346, 347, 371, 372, 374, 375, 387, 431, 432, 433, 436, 437, 442, 443 and 444.

**History:** Laws 1991 (1st S.S.), ch. 2, § 32.

### **2-7C-33. Representative district twenty-six.**

Representative district twenty-six is composed of Bernalillo county precincts number 280, 286, 287, 316, 317, 318, 319, 321, 322, 323, 324, 325, 326, 413, 416, 417, 471 and 472.

**History:** Laws 1991 (1st S.S.), ch. 2, § 33.

### **2-7C-34. Representative district twenty-seven.**

Representative district twenty-seven is composed of Bernalillo county precincts number 407, 409, 410, 418, 419, 420, 421, 440, 481, 488, 489, 490, 497, 498, 499 and 500.

**History:** Laws 1991 (1st S.S.), ch. 2, § 34.

### **2-7C-35. Representative district twenty-eight.**

Representative district twenty-eight is composed of Bernalillo county precincts number 308, 503, 504, 505, 517, 518, 519, 524, 525, 526, 530, 532, 535, 536, 540, 541, 542, 543, 547, 549 and 561.

**History:** Laws 1991 (1st S.S.), ch. 2, § 35.

### **2-7C-36. Representative district twenty-nine.**

Representative district twenty-nine is composed of Bernalillo county precincts number 1, 2, 3, 19, 20, 21, 22, 23, 80, 81, 82, 83, 84 and 85.

**History:** Laws 1991 (1st S.S.), ch. 2, § 36.

### **2-7C-37. Representative district thirty.**

Representative district thirty is composed of Bernalillo county precincts number 313, 314, 315, 373, 385, 386, 400, 401, 402, 403, 404, 405, 406, 408, 411, 412, 434, 435, 439, 441, 445, 446, 491, 492 and 493.

**History:** Laws 1991 (1st S.S.), ch. 2, § 37.

### **2-7C-38. Representative district thirty-one.**

Representative district thirty-one is composed of Bernalillo county precincts number 307, 428, 429, 430, 451, 452, 454, 480, 483, 520, 521, 522, 527, 537, 562, 564, 565, 566 and 568.

**History:** Laws 1991 (1st S.S.), ch. 2, § 38.

### **2-7C-39. Representative district thirty-two.**

Representative district thirty-two is composed of Dona Ana county precincts number 3, 16, 19, 21 and 60; Luna county precincts number 2, 3, 4, 6, 7, 8, 9, 10, 11, 12 and 14; and Sierra county precinct number 1.

**History:** Laws 1991 (1st S.S.), ch. 2, § 39.

### **2-7C-40. Representative district thirty-three.**

Representative district thirty-three is composed of Dona Ana county precincts number 17, 18, 38, 40, 48, 49, 50, 54, 55, 56, 57, 78 and 82.

**History:** Laws 1991 (1st S.S.), ch. 2, § 40.

### **2-7C-41. Representative district thirty-four.**

Representative district thirty-four is composed of Dona Ana county precincts number 7, 8, 9, 10, 12, 13, 14, 15, 79 and 81.

**History:** Laws 1991 (1st S.S.), ch. 2, § 41.

### **2-7C-42. Representative district thirty-five.**

Representative district thirty-five is composed of Dona Ana county precincts number 27, 28, 29, 32, 33, 34, 35, 36, 37, 39, 41, 42, 43, 44, 46, 47, 51, 91, 92 and 93.

**History:** Laws 1991 (1st S.S.), ch. 2, § 42.

### **2-7C-43. Representative district thirty-six.**

Representative district thirty-six is composed of Dona Ana county precincts number 1, 2, 4, 20, 22, 23, 24, 25, 30, 31, 63, 84, 85, 86, 87, 88 and 90.

**History:** Laws 1991 (1st S.S.), ch. 2, § 43.

### **2-7C-44. Representative district thirty-seven.**

Representative district thirty-seven is composed of Dona Ana county precincts number 26, 45, 52, 53, 58, 59, 61, 67, 68, 69, 70, 71, 72, 73, 83, 89 and 94.

**History:** Laws 1991 (1st S.S.), ch. 2, § 44.

### **2-7C-45. Representative district thirty-eight.**

Representative district thirty-eight is composed of Grant county precincts number 1, 2, 3, 4, 5, 7, 10, 12, 13, 14, 15, 18, 21, 29 and 30; Luna county precincts number 1, 5 and 13; and Sierra county precincts number 3, 4, 5, 6, 7 and 9.

**History:** Laws 1991 (1st S.S.), ch. 2, § 45.

### **2-7C-46. Representative district thirty-nine.**

Representative district thirty-nine is composed of Hidalgo county; and Grant county precincts number 6, 8, 9, 11, 16, 17, 19, 20, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33 and 34.

**History:** Laws 1991 (1st S.S.), ch. 2, § 46.

### **2-7C-47. Representative district forty.**

Representative district forty is composed of Mora county precinct number 5; Rio Arriba county precincts number 2, 3, 4, 5, 10, 13, 14, 15, 16, 17, 37, 40 and 41; San Miguel county precincts number 9, 10, 12, 23 and 24; Santa Fe county precinct number 58; and Taos county precincts number 24, 27, 29, 30, 31 and 32.

**History:** Laws 1991 (1st S.S.), ch. 2, § 47.

### **2-7C-48. Representative district forty-one.**

Representative district forty-one is composed of Rio Arriba county precincts number 1, 6, 7, 8, 9, 11, 12, 18, 19, 20, 22, 23, 25, 26, 27, 30, 31, 32, 33, 34, 35, 36, 38 and 39; Sandoval county precincts number 21, 22 and 23; and Taos county precinct number 22.

**History:** Laws 1991 (1st S.S.), ch. 2, § 48.

### **2-7C-49. Representative district forty-two.**

Representative district forty-two is composed of Taos county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 25, 26, 28 and 33.

**History:** Laws 1991 (1st S.S.), ch. 2, § 49.

### **2-7C-50. Representative district forty-three.**

Representative district forty-three is composed of Los Alamos county; and Sandoval county precincts number 6, 7, 10, 16, 17, 18, 28 and 51.

**History:** Laws 1991 (1st S.S.), ch. 2, § 50.

### **2-7C-51. Representative district forty-four.**

Representative district forty-four is composed of Sandoval county precincts number 1, 2, 3, 11, 12, 13, 33, 34, 35, 36, 38, 48 and 49.

**History:** Laws 1991 (1st S.S.), ch. 2, § 51.

### **2-7C-52. Representative district forty-five.**

Representative district forty-five is composed of Santa Fe county precincts number 31, 38, 39, 40, 49, 50, 62, 63, 64, 66, 67, 74, 75 and 76.

**History:** Laws 1991 (1st S.S.), ch. 2, § 52.

### **2-7C-53. Representative district forty-six.**

Representative district forty-six is composed of Santa Fe county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 23, 29, 30, 59, 60, 61 and 79.

**History:** Laws 1991 (1st S.S.), ch. 2, § 53.

### **2-7C-54. Representative district forty-seven.**

Representative district forty-seven is composed of Santa Fe county precincts number 13, 14, 43, 44, 45, 46, 48, 54, 55, 56, 57, 68, 69, 70, 71, 77 and 78.

**History:** Laws 1991 (1st S.S.), ch. 2, § 54.

### **2-7C-55. Representative district forty-eight.**

Representative district forty-eight is composed of Santa Fe county precincts number 20, 21, 22, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36, 37, 41, 42, 47, 51, 52 and 53.

**History:** Laws 1991 (1st S.S.), ch. 2, § 55.

### **2-7C-56. Representative district forty-nine.**

Representative district forty-nine is composed of Catron and Socorro counties; Sierra county precincts number 2 and 8; and Valencia county precincts number 20, 31 and 33.

**History:** Laws 1991 (1st S.S.), ch. 2, § 56.

### **2-7C-57. Representative district fifty.**

Representative district fifty is composed of Torrance county; Bernalillo county precincts number 551, 552 and 554; and Santa Fe county precincts number 12, 15, 16, 17, 18, 19, 65, 72 and 73.

**History:** Laws 1991 (1st S.S.), ch. 2, § 57.

### **2-7C-58. Representative district fifty-one.**

Representative district fifty-one is composed of Otero county precincts number 15, 16, 17, 19, 20, 22, 23, 29, 30, 31, 32, 33, 34 and 36.

**History:** Laws 1991 (1st S.S.), ch. 2, § 58.

### **2-7C-59. Representative district fifty-two.**

Representative district fifty-two is composed of Dona Ana county precincts number 5, 6, 11, 62, 64, 65, 66, 74, 75, 76, 77 and 80.

**History:** Laws 1991 (1st S.S.), ch. 2, § 59.

### **2-7C-60. Representative district fifty-three.**

Representative district fifty-three is composed of Otero county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 9, 18, 21, 24, 25, 26, 27, 28, 35 and 37.

**History:** Laws 1991 (1st S.S.), ch. 2, § 60.

### **2-7C-61. Representative district fifty-four.**

Representative district fifty-four is composed of Eddy county precincts number 2, 3, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 18, 29, 30, 35, 38, 40 and 43.

**History:** Laws 1991 (1st S.S.), ch. 2, § 61.

### **2-7C-62. Representative district fifty-five.**

Representative district fifty-five is composed of Eddy county precincts number 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 36, 37, 39 and 44.

**History:** Laws 1991 (1st S.S.), ch. 2, § 62.

### **2-7C-63. Representative district fifty-six.**

Representative district fifty-six is composed of Lincoln county; Chaves county precinct number 104; and Otero county precincts number 10, 11, 12, 13 and 14.

**History:** Laws 1991 (1st S.S.), ch. 2, § 63.

### **2-7C-64. Representative district fifty-seven.**

Representative district fifty-seven is composed of Chaves county precincts number 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 14, 16 and 41; Eddy county precincts number 1, 4, 5, 8 and 42; Lea county precinct number 2; and Roosevelt county precinct number 5.

**History:** Laws 1991 (1st S.S.), ch. 2, § 64.

### **2-7C-65. Representative district fifty-eight.**

Representative district fifty-eight is composed of Chaves county precincts number 34, 42, 43, 51, 52, 61, 62, 63, 71, 72, 73, 90, 101, 102 and 103; and Eddy county precinct number 41.

**History:** Laws 1991 (1st S.S.), ch. 2, § 65.

### **2-7C-66. Representative district fifty-nine.**

Representative district fifty-nine is composed of Chaves county precincts number 13, 15, 21, 22, 23, 24, 25, 31, 32, 33, 35, 36, 81, 82, 83, 84, 85, 91, 92 and 93.

**History:** Laws 1991 (1st S.S.), ch. 2, § 66.

### **2-7C-67. Representative district sixty.**

Representative district sixty is composed of Sandoval county precincts number 30, 31, 32, 37, 39, 40, 41, 42, 43, 44, 45, 46 and 47.

**History:** Laws 1991 (1st S.S.), ch. 2, § 67.

### **2-7C-68. Representative district sixty-one.**

Representative district sixty-one is composed of Lea county precincts number 31, 34, 35, 36, 51, 52, 53, 54, 61, 62, 71, 72, 73 and 74.

**History:** Laws 1991 (1st S.S.), ch. 2, § 68.

### **2-7C-69. Representative district sixty-two.**

Representative district sixty-two is composed of Lea county precincts number 16, 17, 18, 20, 22, 23, 24, 25, 26, 27, 30, 32, 33, 41, 42, 43 and 44.

**History:** Laws 1991 (1st S.S.), ch. 2, § 69.

## **2-7C-70. Representative district sixty-three.**

Representative district sixty-three is composed of Curry county precincts number 5, 6, 7, 8, 9, 25, 26, 27, 28, 29 and 30; and Roosevelt county precincts number 1, 7, 8, 12 and 17.

**History:** Laws 1991 (1st S.S.), ch. 2, § 70.

## **2-7C-71. Representative district sixty-four.**

Representative district sixty-four is composed of Curry county precincts number 2, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 31 and 32.

**History:** Laws 1991 (1st S.S.), ch. 2, § 71.

## **2-7C-72. Representative district sixty-five.**

Representative district sixty-five is composed of Bernalillo county precinct number 31; Cibola county precincts number 1, 2, 3 and 17; Sandoval county precincts number 4, 5, 8, 9, 14, 15, 19, 20, 27, 29 and 50; and that portion of Sandoval county precinct number 25 that consists of census identification tract number 0102, blocks number 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 258, 259, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281A, 281B, 282A, 282B, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 297 and 349G.

**History:** Laws 1991 (1st S.S.), ch. 2, § 72.

### **ANNOTATIONS**

**Temporary provisions.** - Laws 1991 (1st S.S.), ch. 2, § 79, effective December 18, 1991, provides that pursuant to Subsection C of 1-3-13 NMSA 1978, the secretary of state shall direct the board of county commissioners of Sandoval county to take the following actions by resolution of the board no later than November 1, 1991: (1) designate the portion of current Sandoval county precinct number 25 assigned to representative district sixty-nine in the 1991 House Redistricting Act as precinct number 25 and adjust the boundaries of the precinct accordingly; and (2) transfer that portion of current Sandoval county precinct number 25 assigned to representative district sixty-five in the 1991 House Redistricting Act to any adjacent precinct in that representative district and adjust that precinct's boundaries accordingly.

## **2-7C-73. Representative district sixty-six.**

Representative district sixty-six is composed of Curry county precinct number 33; Lea county precincts number 3, 10, 11, 12, 13, 14, 15 and 21; and Roosevelt county precincts number 2, 3, 4, 9, 10, 11, 13, 14, 15, 16 and 18.

**History:** Laws 1991 (1st S.S.), ch. 2, § 73.

### **2-7C-74. Representative district sixty-seven.**

Representative district sixty-seven is composed of De Baca, Harding, Quay and Union counties; Curry county precincts number 1, 3 and 4; and Roosevelt county precinct number 6.

**History:** Laws 1991 (1st S.S.), ch. 2, § 74.

### **2-7C-75. Representative district sixty-eight.**

Representative district sixty-eight is composed of Colfax and Guadalupe counties; Mora county precincts number 1, 2, 3, 4, 6, 7, 8, 9, 10 and 11; and San Miguel county precincts number 14 and 15.

**History:** Laws 1991 (1st S.S.), ch. 2, § 75.

### **2-7C-76. Representative district sixty-nine.**

Representative district sixty-nine is composed of Cibola county precincts number 4, 6, 9, 10, 11, 14 and 16; McKinley county precincts number 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18; Sandoval county precincts number 24 and 26; and that portion of Sandoval county precinct number 25 that consists of census identification tract number 0102, blocks number 213, 214, 216, 226A, 226B, 226C, 226D, 227A, 227B, 349A, 349B, 349C, 349D, 349E, 349F, 349H, 349J, 349K, 357, 358, 359, 360A, 360B, 360C, 360D, 361A, 361B, 361C, 362, 363, 364, 365A, 365B, 365C, 365D, 368A, 368B, 369, 370A, 370B, 370C, 370D, 370E, 370F, 370G, 370H, 370J, 370K, 370L, 370M, 370N, 370P, 370Q, 370R, 370T, 370U, 370V, 370W, 370X, 370Y, 371A, 371B, 371C, 372A, 372B, 372C, 373A, 373B, 374A, 374B, 375, 376A, 376B, 376C, 376D, 376E, 376F, 376G, 377A, 377B, 378, 379A, 379B, 380A, 380B, 381A, 381B, 382A, 382B, 382C, 382D, 382E, 382F, 383A, 383B, 383C, 383D, 383E, 383F, 384A, 384B, 385, 386A, 386B, 386C, 387A, 387B, 388A, 388B, 389A, 389B, 389C, 389D, 389E, 389F, 389G, 389H, 390A, 390B, 391A, 391B, 391C, 392 and 393.

**History:** Laws 1991 (1st S.S.), ch. 2, § 76.

## **ANNOTATIONS**

**Temporary provisions.** - Laws 1991 (1st S.S.), ch. 2, § 79, effective December 18, 1991, provides that pursuant to Subsection C of 1-3-13 NMSA 1978, the secretary of state shall direct the board of county commissioners of Sandoval county to take the following actions by resolution of the board no later than November 1, 1991: (1) designate the portion of current Sandoval county precinct number 25 assigned to representative district sixty-nine in the 1991 House Redistricting Act as precinct number 25 and adjust the boundaries of the precinct accordingly; and (2) transfer that portion of

current Sandoval county precinct number 25 assigned to representative district sixty-five in the 1991 House Redistricting Act to any adjacent precinct in that representative district and adjust that precinct's boundaries accordingly.

### **2-7C-77. Representative district seventy.**

Representative district seventy is composed of San Miguel county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 11, 13, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27 and 28.

**History:** Laws 1991 (1st S.S.), ch. 2, § 77.

### **2-7C-78. Election of representatives.**

Representatives shall be elected under the provisions of the 1991 House Redistricting Act [2-7C-1 to 2-7C-78 NMSA 1978] at the 1992 and subsequent general elections.

**History:** Laws 1991 (1st S.S.), ch. 2, § 78.

## **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, and Laws 1982 (3rd S.S.), ch. 1, § 52, both repeal 2-8-1 to 2-8-53 NMSA 1978, relating to the apportionment of the senate. For present provisions, see Chapter 2, Article 8C NMSA 1978.

Laws 1982 (2nd S.S.), ch. 2, contains no effective date provision, but was enacted at the session which adjourned on January 19, 1982. See N.M. Const., art. IV, § 23.

Laws 1982 (3rd S.S.), ch. 1, § 53, makes the act effective immediately. Approved June 23, 1982.

Laws 1982 (3rd S.S.), ch. 1, § 52, purportedly also repeals 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 repeals 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 2-8C-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 repeals 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 1983 Replacement Pamphlet. For present comparable provisions, see 2-8C-1 NMSA 1978 et seq.

## **ARTICLE 8C 1991 SENATE REDISTRICTING ACT**

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

This act [2-8C-1 to 2-8C-49 NMSA 1978] may be cited as the "1991 Senate Redistricting Act".

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

### **ANNOTATIONS**

**Compiler's note.** - In *Sanchez v. Anaya*, Civ. No. 82-0067M (D. N.M. Dec. 17, 1984), it was held that for a period of ten years no legislative redistricting in this state, different from that in force or effect at the time of that judgment, shall be enforced unless the court finds that such legislative redistricting does not abridge the right to vote on account of race or color or in contravention of the provisions of the Voting Rights Act of

1965, unless the plan is submitted to the United States Department of Justice and that department does not interpose objections within 60 days. In a January 1992 letter, the United States Department of Justice gave notification that it would not interpose any objection to the redistricting plan which New Mexico submitted on January 6, 1991 (as supplemented on January 8, 10, and 13, 1991).

**Prior legislative reapportionment unconstitutional.** - The 1982 reapportionment of the New Mexico legislature, Articles 7A and 8A of Chapter 2 NMSA 1978 (now repealed), was unconstitutional. *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).

**"Votes cast formula" constitutionally impermissible.** - The "votes cast formula" in former 2-7A-6 and 2-8A-6 NMSA 1978, used to derive precinct populations for state elections, leads to a result which is constitutionally impermissible. *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).

**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).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 25 Am. Jur. 2d Elections §§ 16 to 29, 31 to 38.

Judiciary's power to compel legislature to make apportionment of representatives or election districts, as required by constitution, 46 A.L.R. 964.

29 C.J.S. Elections § 54.

## **2-8C-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 and possible.

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

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

At the time of filing his declaration of candidacy for the office of state senator, the candidate shall reside in the district for which he files. Thereafter, if any 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 [2-8C-4 NMSA 1978] of the 1991 Senate Redistricting Act.

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

## ANNOTATIONS

**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*, 101 N.M. 703, 688 P.2d 21 (1984).

### **2-8C-4. Election; 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) in any senatorial 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 senatorial 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 senatorial 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. All appointments to fill vacancies in the senate shall be for a term ending on December 31 subsequent to the next succeeding general election, at which general election a person shall be elected to fill the remainder of the unexpired term.

**History:** Laws 1991 (1st S.S.), ch. 3, § 4.

## ANNOTATIONS

**Cross-references.** - For resignation procedure for members of legislature, see 2-1-1 NMSA 1978.

For removal from election district being deemed resignation, see 2-8C-3 NMSA 1978.

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

A. Precinct designations and boundaries used in the 1991 Senate Redistricting Act [2-8C-1 to 2-8C-49 NMSA 1978] are those precinct designations and boundaries established pursuant to the Precinct Boundary Adjustment Act [1-3-10 to 1-3-14 NMSA

1978] and revised and approved pursuant to that act by the secretary of state as of August 16, 1991.

B. The boards of county commissioners shall not create any precinct that lies in more than one senatorial 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 senatorial 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. 3, § 5.

## **2-8C-6. Districts.**

The districting of the senate shall be as set out in Sections 7 through 48 [2-8C-7 to 2-8C-48 NMSA 1978] of the 1991 Senate Redistricting Act.

**History:** Laws 1991 (1st S.S.), ch. 3, § 6.

## **2-8C-7. Senate district one.**

Senate district one is composed of San Juan county precincts number 15, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 41, 42, 43, 44, 45, 46, 51, 52, 54, 57, 58, 64 and 81.

**History:** Laws 1991 (1st S.S.), ch. 3, § 7.

## **2-8C-8. Senate district two.**

Senate district two is composed of San Juan county precincts number 11, 12, 13, 18, 29, 30, 53, 55, 56, 60, 61, 62, 63, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 78, 79, 80, 82 and 83.

**History:** Laws 1991 (1st S.S.), ch. 3, § 8.

## **2-8C-9. Senate district three.**

Senate district three is composed of McKinley county precincts number 4, 5, 6, 7, 8, 19, 20, 21, 31, 34, 35, 36, 37, 38 and 49; and San Juan county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 14, 16, 17, 19 and 77.

**History:** Laws 1991 (1st S.S.), ch. 3, § 9.

## **2-8C-10. Senate district four.**

Senate district four is composed of Cibola county precinct number 5; and McKinley county precincts number 1, 2, 3, 18, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48.

**History:** Laws 1991 (1st S.S.), ch. 3, § 10.

### **2-8C-11. Senate district five.**

Senate district five is composed of Los Alamos county precincts number 15 and 16; Rio Arriba county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 26, 27, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 41; and Sandoval county precinct number 18.

**History:** Laws 1991 (1st S.S.), ch. 3, § 11.

### **2-8C-12. Senate district six.**

Senate district six is composed of Mora and Taos counties; and Santa Fe county precincts number 1, 2, 3, 4, 58 and 79.

**History:** Laws 1991 (1st S.S.), ch. 3, § 12.

### **2-8C-13. Senate district seven.**

Senate district seven is composed of Colfax, Harding, Quay and Union counties; Curry county precincts number 1, 2, 10, 12, 15, 16, 17, 18 and 24; and San Miguel county precinct number 15.

**History:** Laws 1991 (1st S.S.), ch. 3, § 13.

### **2-8C-14. Senate district eight.**

Senate district eight is composed of De Baca, Guadalupe and Lincoln counties; and San Miguel county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 14, 25, 26, 27 and 28.

**History:** Laws 1991 (1st S.S.), ch. 3, § 14.

### **2-8C-15. Senate district nine.**

Senate district nine is composed of Bernalillo county precincts number 555, 556, 557 and 567; and Sandoval county precincts number 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39 and 48.

**History:** Laws 1991 (1st S.S.), ch. 3, § 15.

## **2-8C-16. Senate district ten.**

Senate district ten is composed of Bernalillo county precincts number 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 17, 18, 86, 410, 418, 419, 422, 423, 424, 425, 485, 486, 489 and 510.

**History:** Laws 1991 (1st S.S.), ch. 3, § 16.

## **2-8C-17. Senate district eleven.**

Senate district eleven is composed of Bernalillo county precincts number 41, 42, 43, 44, 49, 50, 52, 53, 54, 66, 67, 71, 72, 73, 74, 75, 76, 77, 88, 89 and 97.

**History:** Laws 1991 (1st S.S.), ch. 3, § 17.

## **2-8C-18. Senate district twelve.**

Senate district twelve is composed of Bernalillo county precincts number 45, 61, 62, 64, 65, 101, 121, 122, 123, 124, 125, 131, 132, 161, 163, 164, 165, 166, 211, 212, 213, 214, 215, 216, 217, 221, 222, 223, 345, 346, 431, 433, 442, 443 and 444.

**History:** Laws 1991 (1st S.S.), ch. 3, § 18.

## **2-8C-19. Senate district thirteen.**

Senate district thirteen is composed of Bernalillo county precincts number 11, 14, 15, 16, 30, 151, 152, 153, 154, 162, 181, 182, 183, 184, 185, 186, 187, 191, 192, 193, 194, 195, 196, 197, 347 and 438.

**History:** Laws 1991 (1st S.S.), ch. 3, § 19.

## **2-8C-20. Senate district fourteen.**

Senate district fourteen is composed of Bernalillo county precincts number 63, 90, 91, 92, 93, 94, 95, 96, 98, 99, 102, 103, 104, 105, 106, 107, 133, 134, 135, 224, 225, 226, 246, 256, 258 and 278; and Valencia county precinct number 13.

**History:** Laws 1991 (1st S.S.), ch. 3, § 20.

## **2-8C-21. Senate district fifteen.**

Senate district fifteen is composed of Bernalillo county precincts number 314, 315, 344, 372, 373, 374, 375, 400, 401, 402, 403, 404, 405, 406, 408, 409, 411, 412, 413, 432, 434, 435, 436, 437, 439, 440, 441, 445, 446, 481, 491, 492, 493, 497, 498, 499 and 500.

**History:** Laws 1991 (1st S.S.), ch. 3, § 21.

### **2-8C-22. Senate district sixteen.**

Senate district sixteen is composed of Bernalillo county precincts number 241, 242, 243, 244, 245, 251, 252, 253, 254, 255, 257, 271, 272, 273, 274, 275, 276, 277, 281, 311, 313, 341, 342, 343, 351, 352, 353, 354, 355, 356, 357, 358, 371, 381, 382, 383, 384, 385, 386 and 387.

**History:** Laws 1991 (1st S.S.), ch. 3, § 22.

### **2-8C-23. Senate district seventeen.**

Senate district seventeen is composed of Bernalillo county precincts number 280, 282, 283, 284, 285, 286, 287, 292, 293, 312, 318, 319, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 477 and 478.

**History:** Laws 1991 (1st S.S.), ch. 3, § 23.

### **2-8C-24. Senate district eighteen.**

Senate district eighteen is composed of Bernalillo county precincts number 316, 317, 414, 415, 416, 417, 461, 462, 463, 464, 465, 466, 467, 471, 472, 473, 474, 475, 476, 494, 495, 496, 501, 502, 503, 504, 505, 506, 507, 508, 509, 513, 514, 515, 523, 528, 531, 532 and 533.

**History:** Laws 1991 (1st S.S.), ch. 3, § 24.

### **2-8C-25. Senate district nineteen.**

Senate district nineteen is composed of Bernalillo county precincts number 289, 290, 291, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 331, 332, 333, 544, 550, 552, 553 and 554; Santa Fe county precincts number 18 and 73; and Torrance county precinct number 5.

**History:** Laws 1991 (1st S.S.), ch. 3, § 25.

### **2-8C-26. Senate district twenty.**

Senate district twenty is composed of Bernalillo county precincts number 307, 308, 454, 480, 516, 517, 518, 519, 521, 522, 524, 525, 526, 527, 530, 534, 535, 536, 540, 541, 542, 543, 545, 546, 547, 548, 549, 561, 562, 564, 565 and 566.

**History:** Laws 1991 (1st S.S.), ch. 3, § 26.

## **2-8C-27. Senate district twenty-one.**

Senate district twenty-one is composed of Bernalillo county precincts number 407, 420, 421, 426, 427, 428, 429, 430, 451, 452, 453, 482, 483, 484, 487, 488, 490, 511, 512, 520, 529, 537, 538, 539, 563, 568 and 569.

**History:** Laws 1991 (1st S.S.), ch. 3, § 27.

## **2-8C-28. Senate district twenty-two.**

Senate district twenty-two is composed of Bernalillo county precinct number 31; Los Alamos county precincts number 1, 8, 9, 10, 11, 12, 13 and 14; McKinley county precincts number 9, 10, 11, 12, 13, 14, 15, 16 and 17; Rio Arriba county precincts number 24, 25, 28 and 29; and Sandoval county precincts number 8, 9, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 50.

**History:** Laws 1991 (1st S.S.), ch. 3, § 28.

## **2-8C-29. Senate district twenty-three.**

Senate district twenty-three is composed of Bernalillo county precincts number 1, 2, 19, 20, 23, 80, 81, 82, 83, 84 and 85; and Sandoval county precincts number 30, 31, 40, 41, 42, 43, 44, 45, 46, 47 and 49.

**History:** Laws 1991 (1st S.S.), ch. 3, § 29.

## **2-8C-30. Senate district twenty-four.**

Senate district twenty-four is composed of Santa Fe county precincts number 14, 24, 25, 27, 31, 32, 33, 34, 38, 39, 40, 41, 49, 50, 51, 56, 62, 63, 64, 66, 67, 74, 75 and 76.

**History:** Laws 1991 (1st S.S.), ch. 3, § 30.

## **2-8C-31. Senate district twenty-five.**

Senate district twenty-five is composed of Santa Fe county precincts number 8, 10, 13, 20, 21, 22, 23, 26, 28, 29, 30, 35, 36, 37, 42, 43, 44, 45, 46, 47, 48, 52, 53, 54, 55, 60, 68, 69, 70, 71, 77 and 78.

**History:** Laws 1991 (1st S.S.), ch. 3, § 31.

## **2-8C-32. Senate district twenty-six.**

Senate district twenty-six is composed of Bernalillo county precincts number 21, 22, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 46, 47, 48, 51 and 55.

**History:** Laws 1991 (1st S.S.), ch. 3, § 32.

### **2-8C-33. Senate district twenty-seven.**

Senate district twenty-seven is composed of Chaves county precincts number 1 and 2; Curry county precincts number 3, 4, 5, 6, 7, 8, 9, 20, 25, 28, 29, 30 and 31; and Roosevelt county precincts number 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17.

**History:** Laws 1991 (1st S.S.), ch. 3, § 33; 1992 (2nd S.S.), ch. 2, § 1.

### **ANNOTATIONS**

**The 1992 (2nd S.S.) amendment**, effective April 6, 1992, deleted a reference to Chaves county precinct number 10.

### **2-8C-34. Senate district twenty-eight.**

Senate district twenty-eight is composed of Catron and Grant counties; and Socorro county precincts number 1, 4, 5, 6, 7, 11, 13, 14 and 17.

**History:** Laws 1991 (1st S.S.), ch. 3, § 34.

### **2-8C-35. Senate district twenty-nine.**

Senate district twenty-nine is composed of Valencia county precincts number 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 31, 32, 35, 36 and 37.

**History:** Laws 1991 (1st S.S.), ch. 3, § 35.

### **2-8C-36. Senate district thirty.**

Senate district thirty is composed of Cibola county precincts number 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17; Socorro county precincts number 2, 3, 8, 9, 10, 12, 15 and 16; and Valencia county precincts number 16, 28, 29, 30, 33 and 34.

**History:** Laws 1991 (1st S.S.), ch. 3, § 36.

### **2-8C-37. Senate district thirty-one.**

Senate district thirty-one is composed of Dona Ana county precincts number 7, 11, 12, 13, 14, 15, 53, 54, 57, 58, 74, 75, 76, 77, 79, 80 and 81.

**History:** Laws 1991 (1st S.S.), ch. 3, § 37.

## **2-8C-38. Senate district thirty-two.**

Senate district thirty-two is composed of Chaves county precincts number 13, 14, 15, 16, 24, 32, 34, 42, 43, 51, 52, 61, 62, 63, 71, 72, 73, 90, 101, 102, 103 and 104; Eddy county precincts number 2, 3, 7, 41 and 43; and Otero county precinct number 11.

**History:** Laws 1991 (1st S.S.), ch. 3, § 38; 1992 (2nd S.S.), ch. 2, § 2.

### **ANNOTATIONS**

**The 1992 (2nd S.S.) amendment**, effective April 6, 1992, deleted references to Chaves county precincts number 12, 21, 22, 23, 25, 31, 33, 35, 36, 81, 82, 83, 84, 85, 91 and 93 and added references to Chaves county precincts number 71, 72, 73, 90, 102, 103 and 104.

## **2-8C-39. Senate district thirty-three.**

Senate district thirty-three is composed of Chaves county precincts number 3, 4, 5, 6, 7, 10, 11, 12, 21, 22, 23, 25, 31, 33, 35, 36, 41, 81, 82, 83, 84, 85, 91, 92 and 93; and Eddy county precincts number 1, 4, 5, 6, 8 and 42.

**History:** Laws 1991 (1st S.S.), ch. 3, § 39; 1992 (2nd S.S.), ch. 2, § 3.

### **ANNOTATIONS**

**The 1992 (2nd S.S.) amendment**, effective April 6, 1992, deleted references to Chaves county precincts number 71, 72, 73, 90, 102, 103, and 104 and to Eddy county precincts number 2, 3, 7, 19, 36, 37, 38, 39, 40, 41 and 43 and added references to Chaves county precincts number 10, 12, 21, 22, 23, 25, 31, 33, 35, 36, 81, 82, 83, 84, 85, 91 and 93.

## **2-8C-40. Senate district thirty-four.**

Senate district thirty-four is composed of Eddy county precincts number 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 34, 35, 36, 37, 38, 39, 40 and 44; Lea county precincts number 11, 12, 13, 14, 15, 16, 17, 18, 20, 22 and 62; and Otero county precincts number 2, 3, 4, 5, 6 and 7.

**History:** Laws 1991 (1st S.S.), ch. 3, § 40; 1992 (2nd S.S.), ch. 2, § 4.

### **ANNOTATIONS**

**The 1992 (2nd S.S.) amendment**, effective April 6, 1992, deleted references to Eddy county precincts number 9, 10, 11, 12, 13, 14, 15, 16, 31, 32 and 33 and Otero county precinct number 11 and added references to Eddy county precinct numbers 19, 36, 37, 38, 39 and 40 and to the Lea county precincts.

### **2-8C-41. Senate district thirty-five.**

Senate district thirty-five is composed of Hidalgo and Luna counties; Dona Ana county precincts number 3, 21 and 87; and Sierra county precincts number 1, 3, 4, 5, 6, 7, 8 and 9.

**History:** Laws 1991 (1st S.S.), ch. 3, § 41.

### **2-8C-42. Senate district thirty-six.**

Senate district thirty-six is composed of Dona Ana county precincts number 1, 2, 4, 20, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 41, 42, 43, 44, 45, 60, 63, 84, 85, 86, 91, 92, 93 and 94.

**History:** Laws 1991 (1st S.S.), ch. 3, § 42.

### **2-8C-43. Senate district thirty-seven.**

Senate district thirty-seven is composed of Dona Ana county precincts number 5, 6, 52, 59, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 83 and 89; Otero county precincts number 15, 16, 29, 30 and 31; and Sierra county precinct number 2.

**History:** Laws 1991 (1st S.S.), ch. 3, § 43.

### **2-8C-44. Senate district thirty-eight.**

Senate district thirty-eight is composed of Dona Ana county precincts number 8, 9, 10, 16, 17, 18, 19, 22, 23, 31, 37, 38, 39, 40, 46, 47, 48, 49, 50, 51, 55, 56, 78, 82, 88 and 90.

**History:** Laws 1991 (1st S.S.), ch. 3, § 44.

### **2-8C-45. Senate district thirty-nine.**

Senate district thirty-nine is composed of Bernalillo county precinct number 551; Los Alamos county precincts number 2, 3, 4, 5, 6 and 7; Sandoval county precinct number 51; San Miguel county precincts number 9, 10, 13, 16, 17, 18, 19, 20, 21, 22, 23 and 24; Santa Fe county precincts number 5, 6, 7, 9, 11, 12, 15, 16, 17, 19, 57, 59, 61, 65 and 72; and Torrance county precincts number 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12 and 13.

**History:** Laws 1991 (1st S.S.), ch. 3, § 45.

### **2-8C-46. Senate district forty.**

Senate district forty is composed of Otero county precincts number 1, 8, 9, 10, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36 and 37.

**History:** Laws 1991 (1st S.S.), ch. 3, § 46.

### **2-8C-47. Senate district forty-one.**

Senate district forty-one is composed of Eddy county precincts number 9, 10, 11, 12, 13, 14, 15, 16, 31, 32 and 33; and Lea county precincts number 32, 34, 35, 36, 51, 52, 53, 54, 61, 71, 72, 73 and 74.

**History:** Laws 1991 (1st S.S.), ch. 3, § 47; 1992 (2nd S.S.), ch. 2, § 5.

#### **ANNOTATIONS**

**The 1992 (2nd S.S.) amendment**, effective April 6, 1992, deleted references to Lea county precincts number 20, 22, 23, 30, 31, 33, 41, 42, 43, 44 and 62 and added the Eddy county precinct references.

### **2-8C-48. Senate district forty-two.**

Senate district forty-two is composed of Curry county precincts number 11, 13, 14, 19, 21, 22, 23, 26, 27, 32 and 33; Lea county precincts number 2, 3, 10, 21, 23, 24, 25, 26, 27, 30, 31, 33, 41, 42, 43 and 44; and Roosevelt county precincts number 2, 3, 4 and 18.

**History:** Laws 1991 (1st S.S.), ch. 3, § 48; 1992 (2nd S.S.), ch. 2, § 6.

#### **ANNOTATIONS**

**The 1992 (2nd S.S.) amendment**, effective April 6, 1992, deleted references to Lea county precincts number 11, 12, 13, 14, 15, 16, 17 and 18 and added references to Lea county precincts number 23, 30, 31, 33, 41, 42, 43 and 44.

### **2-8C-49. Election of senators.**

Senators shall be elected under the provisions of the 1991 Senate Redistricting Act [2-8C-1 to 2-8C-49 NMSA 1978] at the 1992 and subsequent general elections.

**History:** Laws 1991 (1st S.S.), ch. 3, § 49.

#### **ANNOTATIONS**

**Constitution does not require staggered terms.** - The decision in *Beauchamp v. Campbell*, Civ. No. 5778 (D.N.M. 1966) (unreported), invalidated the staggered terms requirement in the first paragraph of art. IV, § 4 of the Constitution of New Mexico, and

there is thus no enforceable provision in the constitution that requires staggered terms for senators. 1988 Op. Att'y Gen. No. 88-06.

## **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 § 36.

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

**Appropriations.** - Laws 1991, ch. 1, § 8, effective January 24, 1991, appropriates \$431,900 from the general fund to the legislative education study committee for the eightieth fiscal year for personal services and expenses.

Laws 1991, ch. 1, § 12, effective January 24, 1991, provides that the amounts set out in Sections 7, 8, and 9 of the act are for informational purposes only and may be freely transferred among categories.

Laws 1991, ch. 256, § 4F, effective June 14, 1991, appropriates \$100,000 from the general fund to the legislative education study committee for the eightieth fiscal year to provide funding for additional staff to perform educational monitoring functions with respect to program budgeting, accountability by funding formula category and unit verification and provides that any unexpended or unencumbered balances remaining at the end of the eightieth fiscal year shall revert to the general fund.

Laws 1991, ch. 256, § 2, effective June 14, 1991, provides that all appropriations contained in Laws 1991, ch. 256, § 4 shall be reduced by eighty-two one-hundredths of one percent rounded to the nearest tenth of a thousand dollars and that the department of finance and administration shall adjust all totals, rates of distribution and language accordingly.

Laws 1992, ch. 1, § 9, effective January 30, 1992, appropriates \$534,700 from the general fund to the legislative education study committee for the eighty-first fiscal year for personal services and expenses.

Laws 1992, ch. 1, § 11, effective January 30, 1992, provides that the amounts set out in Sections 7, 8, and 9 of the act are for informational purposes only and may be freely transferred among categories.

Laws 1993, ch. 1, § 9, effective January 28, 1993, appropriates \$546,300 from the general fund to the legislative education study committee for the eighty-first fiscal year for personal services and other expenses.

Laws 1993, ch. 1, § 11, effective January 1, 1993, provides that the amounts set out in Sections 7, 8, and 9 of the Act are for informational purposes only and may be freely transferred among categories.

Laws 1994, ch. 1, § 9, effective January 24, 1994, appropriates \$620,700 from the general fund to the legislative education study committee for the eighty-third fiscal year for personal services and other expenses.

Laws 1994, ch. 1, § 12 provides that the amounts set out in Sections 7, 8 and 9 of the Act are provided for informational purposes only and may be freely transferred among categories.

Laws 1994, ch. 147, § 7C, effective March 9, 1994, appropriates \$30,000 and \$15,000 from the general fund to the legislative education study committee for expenditure in the eighty-second and eighty-third fiscal years for an enrollment growth factor study and to study the need for elementary school counseling programs. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

Laws 1995, ch. 1, § 9, effective January 26, 1995, appropriates \$642,300 from the general fund to the legislative education study committee for fiscal year 1996 for personal services and other expenses.

Laws 1995, ch. 1, § 14, provides that the amounts set out in Section 7, 8 and 9 of the Act are provided for informational purposes only and may be freely transferred among categories.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 72 Am. Jur. 2d States, Territories, and Dependencies §§ 50 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. 85-2.

## **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 §§ 8, 14.

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

82 C.J.S. Statutes §§ 6, 7.

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

As used in the Lobbyist Regulation Act [this article]:

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

**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.

### **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 [this article] 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 twenty-five dollars (\$25.00) 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 his registration statement whether those circumstances apply to him.

C. 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 him 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 his 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.

D. 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 twenty-five dollar (\$25.00) filing fee for each of the lobbyist's employers together with a short, abbreviated prescribed form for renewal.

E. 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.

#### **ANNOTATIONS**

**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.

#### **2-11-4. Recompiled.**

#### **ANNOTATIONS**

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

**Compiler's note.** - Laws 1993, ch. 46, § 58 purported to repeal 2-11-4 NMSA 1978, effective July 1, 1993. However, since Laws 1993, ch. 46, § 24 had already recompiled and amended 2-11-4 NMSA 1978 as 2-11-8.2 NMSA 1978, the repeal has not been given effect.

## **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 [this article] 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 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. The expenditure report shall include a sworn statement that sets forth:

(1) the cumulative total of the expenditures made or incurred, separated into categories that identify the total separate amounts spent on:

(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 his behalf.

B. If the expenditure report is filed electronically, 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.

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 [this article] 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 ten days after a legislative session ends for each separate expenditure made or incurred during the session that was for five hundred dollars (\$500) or more; and

(3) by May 1 for all expenditures and political contributions made or incurred since the January filing.

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 his employment to turn over any such records to his 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. Any lobbyist's employer who also engages in lobbying shall comply with the provisions of the Lobbyist Regulation Act.

H. An organization of two or more persons, including an individual who holds himself out as 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.

### ANNOTATIONS

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

**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 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.

**Internal Revenue Code of 1986.** - The Internal Revenue Code of 1986 is codified throughout Title 26 of the United States Code.

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

Each registration and expenditure statement as required by the Lobbyist Regulation Act [this article] shall be preserved by the secretary of state for a period of two 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 two years after the date of filing.

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

## **ANNOTATIONS**

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

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

**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).

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

### **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 [this article] 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 not be due and payable until the arbitration decision is issued, and no additional penalty shall accrue pending issuance of the arbitration decision.

E. An arbitration hearing shall be conducted by a panel of three persons. The person against whom the penalty has been imposed shall choose one panel member and submit the panel member's name with the request for arbitration. The secretary of state shall choose one panel member and provide notice of the selection within fifteen days of receipt of the request for arbitration. The two members shall then choose the third panel member. If no agreement is reached on a third panel member within thirty days of receipt of the request for arbitration, the presiding judge of the district court for the first judicial district shall appoint the third panel member within ten days thereafter. Neither the secretary of state nor a person subject to the Lobbyist Regulation Act, Campaign Reporting Act [1-19-25 to 1-19-36 NMSA 1978] or Financial Disclosure Act [10-16A-1 to 10-16A-7 NMSA 1978] may serve as a panel member. Panel members shall be paid per diem and mileage by the secretary of state in accordance with the provisions of the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] plus reimbursement for reasonable actual expenses.

F. The arbitration panel may impose any penalty and take any action the secretary of state is authorized to take. The panel shall state the reasons for its 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 forty-five days of the conclusion of the hearing. Unless otherwise provided for in this section, the procedures for the arbitration shall be governed by the Uniform Arbitration Act [44-7-1 to 44-7-22 NMSA 1978], including the procedures set forth in Section 44-7-7 NMSA 1978 authorizing the issuance of subpoenas. No panel member 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.

## ANNOTATIONS

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

**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".

**Compiler's note.** - Laws 1993, ch. 46, § 58 purported to repeal 2-11-4 NMSA 1978, effective July 1, 1993. However, since Laws 1993, ch. 46, § 24 had already recompiled and amended 2-11-4 NMSA 1978 as 2-11-8.2 NMSA 1978, the repeal has not been given effect.

## **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 [this article] 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. Industrial and agricultural finance authority oversight committee created.**

There is created a joint interim legislative committee which shall be known as the "industrial and agricultural finance authority oversight committee."

**History:** Laws 1983, ch. 300, § 24.

### **ANNOTATIONS**

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

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

81A C.J.S. States § 55.

## **2-12-2. Membership; appointment; vacancies.**

The industrial and agricultural finance authority oversight 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 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; provided, in no event shall either of such parties have less than one member from each house on the committee. Vacancies on the committee shall be filled by the legislative council.

**History:** Laws 1983, ch. 300, § 25.

## **2-12-3. Industrial and agricultural finance authority oversight committee; powers and duties.**

The industrial and agricultural finance authority oversight committee shall have the power to:

- A. monitor the actual distribution of funds derived by the authority from bond issues and other activities of the authority under the provisions of the Industrial and Agricultural Finance Authority Act [58-24-1 to 58-24-23 NMSA 1978];
- B. monitor the authority in its control of the issuance of securities and loans;
- C. meet on a regular basis to receive and evaluate periodic reports from the authority as to its enforcement of the provisions of the Industrial and Agricultural 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:** Laws 1983, ch. 300, § 26.

## **2-12-4. Legislative oversight committee.**

There is created the "Public Safety Department oversight committee" to be composed of four members of the senate appointed by the senate committees' committee, no more than two of which shall be of the same political party, and four members of the house of

representatives appointed by the speaker, no more than two of which shall be of the same political party. That committee shall have opportunity to review any rules or regulations proposed to be adopted by the secretary prior to their promulgation. The committee shall make a report of its findings and recommendations to the second session of the thirty-eighth legislature with any suggested legislative changes deemed necessary to improve the operation of the department.

**History:** Laws 1987, ch. 254, § 11.

### **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. DWI oversight task force created; termination.**

The "DWI oversight task force" is created. The task force shall function from the date of its appointment until the first day of December prior to the second session of the forty-third legislature.

**History:** Laws 1993, ch. 65, § 15.

## **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 65, § 24 makes the act effective on July 1, 1993.

**Temporary provisions.** - Laws 1994, ch. 66, § 1, effective March 4, 1994, provides that the commission on information and communication management shall hire staff

necessary to define a more efficient DWI process, set standards for data collection and exchange, prepare a management plan and make recommendations to the DWI oversight task force, the legislative finance committee and the governor. The commission on information and communication management shall cooperate with the DWI process and data standards committee, to be appointed by the governor, to coordinate a statewide DWI information system.

**Appropriations.** - Laws 1993, ch. 65, § 22C, effective July 1, 1993, appropriates \$20,000 from the general fund to the legislative council service for the eighty-second fiscal year for payment of salaries and expenses of technical, legal and clerical staff, purchase of equipment and supplies and reimbursement of per diem and mileage expenses of the DWI oversight task force.

## **2-12-7. Membership; appointment; vacancies.**

A. The DWI oversight task force shall be composed of six legislative members, six public members and thirteen advisory members from the executive and judicial branches of government.

B. 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, by the president pro tempore of the senate after consultation with the agreement of a majority of the members of the committee's committee. 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 task force as prevails in each house; however, in no event shall either party have less than one member from each house on the task force. Vacancies on the task force shall be filled by appointment in the same manner as the original appointments.

C. Three public members shall be appointed to the task force by the speaker of the house of representatives and three public members shall be appointed by the president pro tempore of the senate so as to represent the state's ethnic and geographic diversity. The public members of the task force shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] plus reimbursement for reasonable actual expenses.

D. Additionally the task force shall include the following advisory members:

(1) the secretary of finance and administration or the secretary's designee;

(2) the attorney general or his designee;

(3) the president of the district judges association or his designee;

(4) the secretary of health or his designee;

- (5) the secretary of children, youth and families or his designee;
  - (6) the president of the magistrate judges association or his designee;
  - (7) the president of the municipal judges association or his designee;
  - (8) the chief justice of the supreme court or his designee;
  - (9) the chief judge of the Bernalillo county metropolitan court or his designee;
  - (10) the chief of the traffic safety bureau of the state highway and transportation department;
  - (11) the chief public defender;
  - (12) one district attorney appointed by the president of the district attorney's [attorneys'] association; and
  - (13) the secretary of taxation and revenue or the secretary's designee.
- E. The speaker of the house of representatives and the president pro tempore of the senate shall each designate one co-chairman of the task force.

**History:** Laws 1993, ch. 65, § 16.

### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 65, § 24 makes the act effective on July 1, 1993.

#### **2-12-8. Duties.**

A. After its appointment, the DWI oversight task force 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.

B. Upon approval of the workplan and budget by the legislative council, the task force shall oversee the implementation of the legislative directives relating to alcohol and driving while under the influence of intoxicating liquor or drugs, including:

- (1) implementation of the enhanced penalties and enforcement needs;
- (2) state and community-based programs and services providing DWI and alcohol and drug abuse prevention, screening and treatment;
- (3) DWI and alcohol and drug abuse education, counseling and public health and awareness programs; and

(4) court automation.

C. Additionally the task force shall address other concerns relating to driving while under the influence of intoxicating liquor or drugs and other alcohol and drug abuse issues, including:

(1) development and coordination of joint state-tribal programs relating to driving while under the influence; and

(2) review and better coordination of intervention, screening and treatment programs among the courts, the department of health and the corrections department.

D. The task force shall recommend legislation or changes if any are found to be necessary to the legislature.

**History:** Laws 1993, ch. 65, § 17.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 65, § 24 makes the act effective on July 1, 1993.

#### **2-12-9. Report.**

The DWI oversight task force shall make a report of its findings and recommendations for the consideration of the second session of the forty-first legislature; the first session of the forty-second legislature; the second session of the forty-second legislature; the first session of the forty-third legislature and the second session of the forty-third legislature. The reports and suggested legislation shall be made available to the legislative council on or before December 15 preceding each session.

**History:** Laws 1993, ch. 65, § 18.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 65, § 24 makes the act effective on July 1, 1993.

#### **2-12-10. Staff.**

The staff for the DWI oversight task force shall be provided by the legislative council service.

**History:** Laws 1993, ch. 65, § 19.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 65, § 24 makes the act effective on July 1, 1993.

# **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 §§ 50 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.

### **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.

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

### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 3 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1993, 90 days after adjournment of

the legislature. See Volume 14 of the NMSA 1978 for "Adjournment Dates of Sessions of Legislature".

## **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.

### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 3 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1993, 90 days after adjournment of the legislature. See Volume 14 of the NMSA 1978 for "Adjournment Dates of Sessions of Legislature".

**Appropriations.** - Laws 1993, ch. 3, § 5, effective June 18, 1993, appropriates \$320,000 from the general fund to the legislative council service for the eighty-second fiscal year for the purpose of the interim operation of the offices of the house and senate chief clerks and provides that any unexpended or unencumbered balance remaining at the end of the eighty-second fiscal year shall revert to the general fund.

## **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.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 3 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1993, 90 days after adjournment of the legislature. See Volume 14 of the NMSA 1978 for "Adjournment Dates of Sessions of Legislature".

#### **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.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 3 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective on June 18, 1993, 90 days after adjournment of the legislature. See Volume 14 of the NMSA 1978 for "Adjournment Dates of Sessions of Legislature".

# 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.

### ANNOTATIONS

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

**Appropriations.** - Laws 1993, ch. 366, § 3A, effective June 18, 1993, appropriates \$50,000 from the general fund to the legislative council service for expenditure in the eighty-first and eighty-second fiscal years to pay expenses associated with the governmental ethics oversight committee. Any unexpended or unencumbered balance remaining at the end of the eighty-second fiscal year shall revert to the general fund.

Laws 1993, ch. 366, § 5 provides for the severability of that act if any part or application thereof is held invalid.

### 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 to 10-8-8 NMSA 1978] plus reimbursement for reasonable actual expenses.

**History:** Laws 1993, ch. 46, § 47.

### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

#### **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.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

#### **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.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

#### **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.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

#### **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.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

## **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.

### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

## **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.

## ANNOTATIONS

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

### **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**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

### **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.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

### **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.

#### **ANNOTATIONS**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

### **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**

**Effective dates.** - Laws 1993, ch. 46, § 60 makes the act effective on July 1, 1993.

# **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.

#### **ANNOTATIONS**

**Emergency clauses.** - Laws 1994, ch. 90, § 8 makes the act effective immediately. Approved March 7, 1994.

**Appropriations.** - Laws 1994, ch. 90, § 7, effective March 7, 1994, appropriates \$20,000 from the general fund to the legislative council service for the eighty-second and eighty-third fiscal years for the purpose of paying the salaries and expenses of the technical, legal, clerical and stenographic assistants, for necessary equipment and supplies used in carrying out the provisions of that act and for reimbursing the per diem and mileage expenses of the committee; provides that any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund; and provides that payments from the appropriation shall be made upon vouchers signed by the director of the legislative council service or his authorized representative.

#### **2-16-2. Membership; appointment; vacancies.**

A. The 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. The chairman and vice chairman of the committee shall be elected by 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 1994, ch. 90, § 2.

#### **ANNOTATIONS**

**Emergency clauses.** - Laws 1994, ch. 90, § 8 makes the act effective immediately. Approved March 7, 1994.

### **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.

#### **ANNOTATIONS**

**Emergency clauses.** - Laws 1994, ch. 90, § 8 makes the act effective immediately. Approved March 7, 1994.

### **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.

#### **ANNOTATIONS**

**Emergency clauses.** - Laws 1994, ch. 90, § 8 makes the act effective immediately. Approved March 7, 1994.

### **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.

#### **ANNOTATIONS**

**Emergency clauses.** - Laws 1994, ch. 90, § 8 makes the act effective immediately. Approved March 7, 1994.

#### **2-16-6. Staff.**

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

**History:** Laws 1994, ch. 90, § 6.

#### **ANNOTATIONS**

**Emergency clauses.** - Laws 1994, ch. 90, § 8 makes the act effective immediately. Approved March 7, 1994.

**Appropriations.** - Laws 1994, ch. 90, § 7, effective March 7, 1994, appropriates \$20,000 from the general fund to the legislative council service for the eighty-second and eighty-third fiscal years for the purpose of paying the salaries and expenses of the technical, legal, clerical and stenographic assistants, for necessary equipment and supplies used in carrying out the provisions of the act and for reimbursing the per diem and mileage expenses of the committee; provides that any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund; and provides that payments from the appropriation shall be made upon vouchers signed by the director of the legislative council service or his authorized representative.