CHAPTER 11

AN ACT

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

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

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

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

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

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

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

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

(2) all sources of gross income of more than five thousand dollars ($5,000) to each person covered in the disclosure statement, identified by general category descriptions that disclose the nature of the income source, in the following broad categories: law practice or consulting operation or similar business, finance and
banking, farming and ranching, medicine and health care,
insurance (as a business and not as payment on an insurance
claim), oil and gas, transportation, utilities, general stock
market holdings, bonds, government, education, manufacturing,
real estate, consumer goods sales with a general description
of the consumer goods and the category "other", with
direction that the income source be similarly described. In
describing a law practice, consulting operation or similar
business of the person or spouse, the major areas of
specialization or income sources shall be described, and if
the spouse or a person in the reporting person's or spouse's
law firm, consulting operation or similar business is or was
during the reporting calendar year or the prior calendar year
a registered lobbyist under the Lobbyist Regulation Act, the
names and addresses of all clients represented for lobbying
purposes during those two years shall be disclosed;

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

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

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

(6) all New Mexico professional licenses held;

(7) each state agency that was sold goods or services in excess of five thousand dollars ($5,000) during the prior calendar year by a person covered in the disclosure statement;

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

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

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

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

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

G. A candidate for a legislative or statewide office who fails or refuses to file a financial disclosure statement required by this section before the final date for the withdrawal of candidates provided for in the Election Code shall not have the candidate's name printed on the election ballot.

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

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

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

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

B. "governmental entity" means the state or any local public body as defined in Subsections C and H of this SB 3
section;

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

D. "law enforcement officer" means a full-time salaried public employee of a governmental entity, or a certified part-time salaried police officer employed by a governmental entity, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes, or members of the national guard when called to active duty by the governor;

E. "maintenance" does not include:

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

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

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

(1) elected or appointed officials;
(2) law enforcement officers;
(3) persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;
(4) licensed foster parents providing care for children in the custody of the human services department, corrections department or department of health, but not including foster parents certified by a licensed child placement agency;
(5) members of state or local selection panels established pursuant to the Adult Community Corrections Act;
(6) members of state or local selection panels established pursuant to the Juvenile Community Corrections Act;
(7) licensed medical, psychological or dental arts practitioners providing services to the
corrections department pursuant to contract;

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

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

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

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

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

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

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

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

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

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

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

(19) members of the insurance nominating committee;

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

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

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

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

A. The position of superintendent of insurance shall be the chief officer of the office of superintendent of
E. The superintendent shall be appointed by the insurance nominating committee.

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

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

E. The superintendent shall not be removed except for incompetence, willful neglect of duty or malfeasance in office. The insurance nominating committee may remove the superintendent after providing the superintendent with notice and a hearing."

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

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

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

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

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

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

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

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

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

(b) two members who shall represent the interests of insurance consumers and who have experience advocating on behalf of consumers or the public interest on insurance issues. These consumer members shall not be employed by or on behalf of or have a contract with an

SB 3
Page 11
employer that is regulated by the office of superintendent of
insurance; and

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

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

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

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

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

C. A committee member shall:

    (1) be a resident of New Mexico;

    (2) serve a four-year term; except that a
member of the first committee appointed shall serve for a
term that ends on June 30, 2015; and
(3) serve without compensation, but shall be eligible to receive per diem and mileage pursuant to the Per Diem and Mileage Act.

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

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

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

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

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

I. The committee shall meet no less often than annually.
The committee is administratively attached to the office of superintendent of insurance. The office of superintendent of insurance shall provide staff for the committee.

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

(1) protected under the Whistleblower Protection Act; or

(2) required by law."

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

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

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

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

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

(1) has a direct financial interest in an insurer or insurance agency regulated by the office of superintendent of insurance, except as an owner of less than one percent of the shares of an insurer that is a publicly traded corporation; or

(2) is licensed as an individual by the office of superintendent of insurance.
John A. Sanchez, President
Senate

Lenore M. Naranjo, Chief Clerk
Senate

Don L. Tripp, Speaker
House of Representatives

Denise Ramonas, Chief Clerk
House of Representatives

Approved by me this 31st day of March, 2015

Susana Martinez
Governor
State of New Mexico