AN ACT
RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ENACTING THE STATE ETHICS COMMISSION ACT; PROVIDING FOR AN
EXECUTIVE DIRECTOR; PROVIDING FOR ANNUAL ETHICS TRAINING AND
THE PUBLICATION OF ETHICS GUIDES; REQUIRING THE DEVELOPMENT
OF A PROPOSED ETHICS CODE; PROVIDING FOR THE ISSUANCE OF
ADVISORY OPINIONS; PROVIDING FOR THE FILING OF COMPLAINTS
AGAINST CERTAIN PUBLIC OFFICIALS, PUBLIC EMPLOYEES,
CANDIDATES AND PERSONS SUBJECT TO THE CAMPAIGN REPORTING ACT,
GOVERNMENT CONTRACTORS, LOBBYISTS AND OTHERS FOR ETHICS
VIOLATIONS; PROVIDING FOR INVESTIGATIONS AND HEARINGS;
GRANTING SUBPOENA POWERS; PROHIBITING RETALIATION;
PROHIBITING CERTAIN CANDIDATES AND STATE OFFICERS FROM
SOLICITING CONTRIBUTIONS DURING A PROHIBITED PERIOD;
PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
SECTION 1. SHORT TITLE.--Sections 1 through 16 of this
act may be cited as the "State Ethics Commission Act".

SECTION 2. DEFINITIONS.--As used in the State Ethics
Commission Act:

A. "commission" means the state ethics commission;
B. "commissioner" means a member of the
commission;
C. "complainant" means a person who files a
verified complaint with the commission;

D. "complaint" means a complaint that has been signed by the complainant and the complainant attests under oath and subject to penalty of perjury before a notary public that the information in the complaint, and any attachments provided with the complaint, are true and accurate;

E. "director" means the executive director of the commission;

F. "government contractor" means a person who has a contract with a public agency or who has submitted a competitive sealed proposal or competitive sealed bid for a contract with a public agency;

G. "legislative body" means the house of representatives or the senate;

H. "lobbyist" means a person who is required to register as a lobbyist pursuant to the provisions of the Lobbyist Regulation Act;

I. "political party" means a political party that has been qualified in accordance with the provisions of the Election Code;

J. "public agency" means any department, commission, council, board, committee, agency or institution of the executive or legislative branch of government of the state or any instrumentality of the state, including the New Mexico mortgage finance authority, the New Mexico finance
authority, the New Mexico exposition center authority, the
New Mexico hospital equipment loan council and the New Mexico
renewable energy transmission authority;

K. "public employee" means an employee of a public
agency;

L. "public official" means a person elected to an
office of the executive or legislative branch of the state or
a person appointed to a public agency; and

M. "respondent" means a person against whom a
complaint has been filed with or by the commission.

SECTION 3. STATE ETHICS COMMISSION CREATED--
MEMBERSHIP--TERMS--REMOVAL.--

A. The "state ethics commission", as created in
Article 5, Section 17 of the constitution of New Mexico, is
composed of seven commissioners, appointed as follows:

(1) one commissioner appointed by the
speaker of the house of representatives;

(2) one commissioner appointed by the
minority floor leader of the house of representatives;

(3) one commissioner appointed by the
president pro tempore of the senate;

(4) one commissioner appointed by the
minority floor leader of the senate;

(5) two commissioners appointed by the four
legislatively appointed commissioners; and
(6) one commissioner appointed by the governor, who shall be a retired judge and who shall chair the commission.

B. No more than three members of the commission may be members of the same political party.

C. The appointing authorities shall give due regard to the cultural diversity of the state and to achieving geographical representation from across the state. Each appointing authority shall file letters of appointment with the secretary of state.

D. Commissioners shall be appointed for staggered terms of four years beginning July 1, 2019. The initial commissioners appointed by the speaker of the house of representatives and senate minority floor leader shall serve an initial term of four years; members appointed by the president pro tempore of the senate and house minority floor leader shall serve an initial term of two years; members appointed by the legislatively appointed members shall serve an initial term of one year; and the member appointed by the governor shall serve an initial term of three years. Members shall serve until their successors are appointed and qualified.

E. A person shall not serve as a commissioner for more than two consecutive four-year terms.

F. When any member of the commission dies, resigns
or no longer has the qualifications required for the commissioner's original selection, the commissioner's position on the commission becomes vacant. The director shall notify the original appointing authority of the vacant position. The original appointing authority shall select a successor in the same manner as the original selection was made. A vacancy shall be filled by appointment by the original appointing authority no later than sixty days following notification of a vacancy for the remainder of the unexpired term. A vacancy on the commission shall be filled by appointment by the original appointing authority for the remainder of the unexpired term.

G. The commission shall meet as necessary to carry out its duties pursuant to the State Ethics Commission Act. Commissioners are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

H. Four commissioners consisting of two members of the largest political party in the state and two members of the second largest political party in the state constitute a quorum for the transaction of business. No action shall be taken by the commission unless at least four members, including at least two members of the largest political party in the state and two members of the second largest political party in the state, concur.
I. A commissioner may be removed only for incompetence, neglect of duty or malfeasance in office. A proceeding for the removal of a commissioner may be commenced by the commission or by the attorney general upon the request of the commission. A commissioner shall be given notice of hearing and an opportunity to be heard before the commissioner is removed. The supreme court has original jurisdiction over proceedings to remove commissioners, and its decision shall be final. A commissioner is also liable to impeachment pursuant to Article 4, Section 36 of the constitution of New Mexico.

SECTION 4. COMMISSIONERS--QUALIFICATIONS--LIMITATIONS.--

A. To qualify for appointment to the commission, a person shall:

(1) be a qualified elector of New Mexico;

(2) not have changed party registration in the five years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the commission;

(3) not continue to serve as a commissioner if the member changes party registration after the date of appointment in such a manner as to make the member ineligible to serve on the commission; and

(4) not be, or within the two years prior to...
appointment shall not have been, in New Mexico, any of the following:

(a) a public official;
(b) a public employee;
(c) a candidate;
(d) a lobbyist;
(e) a government contractor; or
(f) an office holder in a political party at the state or federal level.

B. Before entering upon the duties of the office of commissioner, each commissioner shall review the State Ethics Commission Act and other laws and rules pertaining to the commission's responsibilities and to ethics and governmental conduct in New Mexico. Each commissioner shall take the oath of office as provided in Article 20, Section 1 of the constitution of New Mexico.

C. For a period of one calendar year following a commissioner's tenure or following the resignation or removal of a commissioner, the commissioner shall not:

(1) represent a respondent, unless appearing on the commissioner's own behalf; or

(2) accept employment or otherwise provide services to a respondent unless the commissioner accepted employment or provided services prior to the filing of a complaint against the respondent.
D. During a commissioner's tenure, a commissioner shall not hold another public office or be:
   (1) a public employee;
   (2) a candidate;
   (3) a lobbyist;
   (4) a government contractor; or
   (5) an office holder in a political party at the state or federal level.

E. A commissioner who changes political party affiliation in violation of the provisions of Subsection A of this section or who chooses to seek or hold an office in violation of Subsection D of this section shall resign from the commission or be deemed to have resigned.

SECTION 5. COMMISSION--DUTIES AND POWERS.--

A. The commission shall:
   (1) employ an executive director, who shall be an attorney, upon approval of at least five commissioners;
   (2) develop, adopt and promulgate the rules necessary for it to implement and administer the provisions of the State Ethics Commission Act; and
   (3) establish qualifications for hearing officers and rules for hearing procedures and appeals.

B. Beginning January 1, 2020, the commission shall:
   (1) receive and investigate complaints
alleging ethics violations against public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers;

(2) hold hearings in appropriate cases to determine whether there has been an ethics violation;

(3) compile, index, maintain and provide public access to all advisory opinions and reports required to be made public pursuant to the State Ethics Commission Act;

(4) draft a proposed code of ethics for public officials and public employees and submit the proposed code to each elected public official and public agency for adoption; and

(5) submit an annual report of its activities, including any recommendations regarding state ethics laws or the scope of its powers and duties, in December of each year to the legislature and the governor.

C. Beginning January 1, 2020, the commission may:

(1) by approval of at least five commissioners, initiate complaints alleging ethics violations against a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist's employer;

(2) petition a district court to issue
subpoenas under seal requiring the attendance of witnesses and the production of books, records, documents or other evidence relevant or material to an investigation;

(3) issue advisory opinions in accordance with the provisions of the State Ethics Commission Act;

(4) compile, adopt, publish and make available to all public officials, public employees, government contractors and lobbyists an ethics guide that clearly and plainly explains the ethics requirements set forth in state law, including those that relate to conducting business with the state and public agencies; and

(5) offer annual ethics training to public officials, public employees, government contractors, lobbyists and other interested persons.

SECTION 6. EXECUTIVE DIRECTOR--APPOINTMENT--DUTIES AND POWERS.--

A. The commission shall appoint an executive director who shall be knowledgeable about state ethics laws and who shall be appointed without reference to party affiliation and solely on the grounds of fitness to perform the duties of the office. The director shall hold office from the date of appointment until such time as the director is removed by the commission.

B. The director shall:

(1) take the oath of office required by
Article 20, Section 1 of the constitution of New Mexico;

(2) hire a general counsel who may serve for no more than five years, unless rehired for up to an additional five years;

(3) hire additional personnel as may be necessary to carry out the duties of the commission;

(4) prepare an annual budget for the commission and submit it to the commission for approval;

(5) make recommendations to the commission of proposed rules or legislative changes needed to provide better administration of the State Ethics Commission Act;

(6) perform other duties as assigned by the commission; and

(7) be required to reapply for the position after six years of service and may serve as director for no more than twelve years.

C. The director may:

(1) enter into contracts and agreements on behalf of the commission; and

(2) have the general counsel administer oaths and take depositions subject to the Rules of Civil Procedure for the District Courts.

D. For a period of one calendar year immediately following termination of the director's employment with the commission, the director shall not:
(1) represent a respondent, unless appearing on the director's own behalf; or
(2) accept employment or otherwise provide services to a respondent, unless the director accepted employment or provided services prior to the filing of a complaint against the respondent.

SECTION 7. RECUSAL AND DISQUALIFICATION OF A COMMISSIONER.—

A. A commissioner may recuse from a particular matter.

B. A commissioner shall recuse from any matter in which the commissioner is unable to make a fair and impartial decision or in which there is a reasonable doubt about whether the commissioner can make a fair and impartial decision, including:

(1) when the commissioner has a personal bias or prejudice concerning a party to the proceeding or has prejudged a disputed evidentiary fact involved in a proceeding prior to a hearing. For the purposes of this paragraph, "personal bias or prejudice" means a predisposition toward a person based on a previous or ongoing relationship that renders the commissioner unable to exercise the commissioner's functions impartially;

(2) when the commissioner has a pecuniary interest in the outcome of the matter; or
(3) when in previous employment the commissioner served as an attorney, adviser, consultant or witness in the matter in controversy.

C. A party to the proceeding may request the recusal of a commissioner and shall provide the commission with the grounds for the request. If the commissioner declines to recuse upon request of a party to the proceeding, the commissioner shall provide a full explanation in support of the refusal to recuse.

D. A party may appeal a commissioner's refusal to recuse, or if the propriety of a commissioner's participation in a particular matter is otherwise questioned, the issue shall be decided by a majority of the other commissioners present and voting.

E. A disqualified commissioner shall not participate in any proceedings with reference to the matter from which the commissioner is disqualified or recused, and the commissioner shall be excused from that portion of any meeting at which the matter is discussed.

F. Minutes of commission meetings shall record the name of any commissioner not voting on a matter by reason of disqualification or recusal.

G. If two or more commissioners have recused themselves or are disqualified from participating in a proceeding, the remaining commissioners shall appoint
temporary commissioners to participate in that proceeding.
Appointments of temporary commissioners shall be made by a
majority vote of the remaining commissioners in accordance
with the political affiliation and geographical
representation requirements and the qualifications set forth
in the State Ethics Commission Act.

H. The commission shall promulgate rules for the
recusal and disqualification of commissioners, for an appeal
of a recusal decision and for the appointment of temporary
commissioners.

SECTION 8. ADVISORY OPINIONS.--

A. The commission may issue advisory opinions on
matters related to ethics. Advisory opinions shall:

(1) be requested in writing by a public
official, public employee, candidate, person subject to the
Campaign Reporting Act, government contractor, lobbyist or
lobbyist's employer;

(2) identify a specific set of circumstances
involving an ethics issue;

(3) be issued within sixty days of receipt
of the request unless the commission notifies the requester
of a delay in issuance and continues to notify the requester
every thirty days until the advisory opinion is issued; and

(4) be published after omitting the
requester's name and identifying information.
B. A request for an advisory opinion shall be confidential and not subject to the provisions of the Inspection of Public Records Act.

C. Unless amended or revoked, an advisory opinion shall be binding on the commission in any subsequent commission proceedings concerning a person who acted in good faith and in reasonable reliance on the advisory opinion.

SECTION 9. COMMISSION JURISDICTION--COMPLIANCE PROVISIONS.--

A. The commission has jurisdiction to enforce the applicable civil compliance provisions for public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers of:

(1) the Campaign Reporting Act;
(2) the Financial Disclosure Act;
(3) the Gift Act;
(4) the Lobbyist Regulation Act;
(5) the Voter Action Act;
(6) the Governmental Conduct Act;
(7) the Procurement Code;
(8) the State Ethics Commission Act; and
(9) Article 9, Section 14 of the constitution of New Mexico.

B. All complaints filed with a public agency
regarding the statutes listed in Subsection A of this section
shall be forwarded to the commission.

C. The commission may choose to act on some or all
aspects of a complaint and forward other aspects of a
complaint to another state or federal agency with
jurisdiction over the matter in accordance with Subsection E
of this section.

D. If the commission decides not to act on a
complaint, whether the complaint was filed with the
commission or forwarded from another public agency, or
decides only to act on part of a complaint, the commission
shall promptly forward the complaint, or any part of a
complaint on which it does not wish to act, to the public
agency that has appropriate jurisdiction within ten days of
the decision. The complainant and respondent shall be
notified in writing when the complainant's request has been
forwarded to another agency unless otherwise provided
pursuant to Subsection H of Section 10 of the State Ethics
Commission Act.

E. The commission may share jurisdiction with
other public agencies having authority to act on a complaint
or any aspect of a complaint. Such shared jurisdiction shall
be formalized through an agreement entered into by all
participating agencies involved with the complaint and the
director. The commission may also investigate a complaint
referred to the commission by the legislature, or a legislative committee, in accordance with an agreement entered into pursuant to policies of the New Mexico legislative council or rules of the house of representatives or senate.

F. The commission may file a court action to enforce the civil compliance provisions of an act listed in Subsection A of this section. The court action shall be filed in the district court in the county where the respondent resides.

SECTION 10. COMPLAINTS--INVESTIGATIONS--SUBPOENAS.--

A. A complaint of an alleged ethics violation committed by a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist, lobbyist's employer or a restricted donor subject to the Gift Act may be filed with the commission by a person who has actual knowledge of the alleged ethics violation.

B. The complainant shall set forth in detail the specific charges against the respondent and the factual allegations that support the charges and shall sign the complaint under penalty of false statement. The complainant shall submit any evidence the complainant has that supports the complaint. Evidence may include documents, records and names of witnesses. The commission shall prescribe the forms
on which complaints are to be filed. The complaint form shall be signed and sworn by the complainant and notarized.

C. Except as provided in Subsection H of this section, the respondent shall be notified within seven days of the filing of the complaint and offered an opportunity to file a response on the merits of the complaint.

D. The director shall determine if the complaint is subject to referral to another state agency pursuant to an agreement or outside the jurisdiction of the commission, and if so, promptly refer the complaint to the appropriate agency. If the director determines that the complaint is within the commission's jurisdiction, the director shall have the general counsel initiate an investigation.

E. The general counsel shall conduct an investigation to determine whether the complaint is frivolous or unsubstantiated. If the general counsel determines that the complaint is frivolous or unsubstantiated, the complaint shall be dismissed, and the complainant and respondent shall be notified in writing of the decision and reasons for the dismissal. The commission shall not make public a complaint that has been dismissed pursuant to this subsection or the reasons for the dismissal.

F. If the general counsel and the respondent reach a settlement on the matters of the complaint, the settlement shall be submitted to the commission for its approval, and if
the matter has been resolved to the satisfaction of the
commission, the complaint and terms of the settlement shall
be subject to public disclosure.

G. If the general counsel determines that there is
probable cause, the director shall promptly notify the
respondent of the finding of probable cause and of the
specific allegations in the complaint that are being
investigated and that a public hearing will be set. If the
finding of probable cause involves a discriminatory practice
or actions by the respondent against the complainant, no
settlement agreement shall be reached without prior
consultation with the complainant. In any case, the
notification, complaint, specific allegations being
investigated and any response to the complaint shall be made
public thirty days following notice to the respondent.

H. Notwithstanding the provisions of Subsections C
and G of this section, the director may delay notifying a
respondent and complainant and releasing to the public the
complaint and related information required by Subsection G of
this section if it is deemed necessary to protect the
integrity of a criminal investigation. A decision whether to
delay notifying a respondent shall be taken by a majority
vote of the commission and shall be documented in writing
with reasonable specificity.

I. As part of an investigation, the general
counsel may administer oaths, interview witnesses and examine books, records, documents and other evidence reasonably related to the complaint. All testimony in an investigation shall be under oath, and the respondent may be represented by legal counsel. If the general counsel determines that a subpoena is necessary to obtain the testimony of a person or the production of books, records, documents or other evidence, the director shall request that the commission petition a district court to issue a subpoena.

J. The commission may petition the court for a subpoena for the attendance and examination of witnesses or for the production of books, records, documents or other evidence reasonably related to an investigation. If a person neglects or refuses to comply with a subpoena, the commission may apply to a district court for an order enforcing the subpoena and compelling compliance. All proceedings in the district court prior to the complaint being made public pursuant to Subsection G of this section, or upon entry of a settlement agreement, shall be sealed. A case is automatically unsealed upon notice by the commission to the court that the commission has made the complaint public. No later than July 1 of each even-numbered year, the chief justice of the supreme court shall appoint an active or pro tempore district judge to consider the issuance and enforcement of subpoenas provided for in this section. The
appointment shall end on June 30 of the next even-numbered year after appointment.

K. A public official or state public employee who is a respondent who is subject to a complaint alleging a violation made in the performance of the respondent's duties shall be entitled to representation by the risk management division of the general services department.

SECTION 11. STATUS OF INVESTIGATION--REPORTS TO COMMISSION.--

A. If a hearing has not been scheduled concerning the disposition of a complaint within ninety days after the complaint is received, the director shall report to the commission on the status of the investigation. The commission may dismiss the complaint or instruct the director to continue the investigation of the complaint. Unless the commission dismisses the complaint, the director shall report to the commission every ninety days thereafter on the status of the investigation.

B. Upon dismissal of a complaint or a decision to continue an investigation of a complaint, the commission shall notify the complainant and respondent in writing of its action. If the commission has not notified a respondent pursuant to the provisions of Subsection G of Section 10 of the State Ethics Commission Act, the commission shall vote on whether to notify the respondent. A decision whether to
continue to delay notifying the respondent shall be taken by a majority vote of a quorum of the commission and shall be documented in writing with reasonable specificity.

SECTION 12. INVESTIGATION REPORT--COMMISSION HEARINGS--DECISIONS AND REASONS GIVEN--DISCLOSURE OF AN ETHICS VIOLATION.--

A. Upon receipt of the general counsel's recommendation, the commission or hearing officer shall:
   (1) dismiss a complaint and notify the complainant and the respondent of the dismissal; or
   (2) set a public hearing, as soon as practicable.

B. At any time before or during a hearing provided for in Subsection A of this section, the hearing officer may, at a public meeting, approve a disposition of a complaint agreed to by the general counsel and the respondent, as approved by the commission.

C. The hearing provided for in Subsection A of this section shall be pursuant to the rules of evidence that govern proceedings in the state's courts and procedures established by the commission. An audio recording shall be made of the hearing. The respondent may be represented by counsel. The parties may present evidence and testimony, request the director to compel the presence of witnesses and examine and cross-examine witnesses.
D. The hearing officer shall issue a written decision that shall include the reasons for the decision. If the hearing officer finds by a preponderance of the evidence that the respondent's conduct constituted a violation, the decision may include recommendations for disciplinary action against the respondent, and the hearing officer may impose any fines provided for by law. A finding of fraudulent or willful misconduct shall require clear and convincing evidence.

E. The complainant or respondent may appeal a decision of the hearing officer within thirty days of the decision to the full commission, which shall hear the matter within sixty days of notice of the appeal and issue its decision within 180 days.

F. The commission shall publicly disclose a decision, including a dismissal following a finding of probable cause or the terms of a settlement, issued pursuant to this section. The commission shall provide the decision to the complainant, the respondent and the:

(1) house of representatives if the respondent is a public official who is subject to impeachment;

(2) appropriate legislative body if the respondent is a member of the legislature;

(3) respondent's appointing authority if the
respondent is an appointed public official;

(4) appropriate public agency if the respondent is a public employee;

(5) public agency with which the respondent has a government contract if the respondent is a government contractor; and

(6) secretary of state and the respondent's employer, if any, if the respondent is a lobbyist.

G. The commission shall produce a quarterly report subject to public inspection containing the following information:

(1) the number of complaints filed with and referred to the commission;

(2) the disposition of the complaints; and

(3) the type of violation alleged in the complaints.

SECTION 13. CONFIDENTIALITY OF RECORDS--PENALTY.--

A. A decision that a respondent's conduct constituted a violation, and the terms of a settlement approved by the commission, are public records. Pleadings, motions, briefs and other documents or information related to the decision are public records, except for information that is confidential or protected pursuant to attorney-client privilege, provider-patient privilege or state or federal law.
B. If a complaint is determined to be frivolous, unsubstantiated or outside the jurisdiction of the commission, the complaint shall not be made public by the commission; provided that the commission shall not prohibit the complainant or respondent from releasing the commission's decision or other information concerning the complaint.

C. Except as otherwise provided in the acts listed in Section 9 of the State Ethics Commission Act, all complaints, reports, files, records and communications collected or generated by the commission, hearing officer, general counsel or director that pertain to alleged violations shall not be disclosed by the commission or any commissioner, agent or employee of the commission, unless:

1. disclosure is necessary to pursue an investigation by the commission;
2. disclosure is required pursuant to the provisions of the State Ethics Commission Act; or
3. they are offered into evidence by the commission, respondent or another party at a judicial, legislative or administrative proceeding, including a hearing before a hearing officer.

D. Information and reports containing information made confidential by law shall not be disclosed by the commission or its director, staff or contractors.

E. A commissioner, director, staff or contractor
who knowingly discloses any confidential complaint, report, file, record or communication in violation of the State Ethics Commission Act is guilty of a petty misdemeanor.

SECTION 14. CRIMINAL VIOLATIONS--REFERRAL.--If the commission finds at any time that a respondent's conduct amounts to a criminal violation, the director shall consult with the attorney general or an appropriate district attorney, and the commission may refer the matter to the attorney general or an appropriate district attorney. The commission may provide the attorney general or district attorney with all evidence collected during the commission's investigation. Nothing in this section prevents the commission from taking any action authorized by the State Ethics Commission Act or deciding to suspend an investigation pending resolution of any criminal charges.

SECTION 15. TIME LIMITATIONS ON JURISDICTION.--

A. The commission shall not accept or consider a complaint unless the complaint is filed with the commission within the later of two years from the date:

(1) on which the alleged conduct occurred;

or

(2) the alleged conduct could reasonably have been discovered.

B. The commission shall not adjudicate a complaint filed against a candidate, except pursuant to the Campaign

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Reporting Act or Voter Action Act, less than sixty days before a primary or general election. During that time period, the commission may dismiss complaints that are frivolous or unsubstantiated or refer complaints that are outside the jurisdiction of the commission.

C. A complainant shall be notified in writing of the provisions of this section and shall also be notified in writing that the complainant may refer allegations of criminal conduct to the attorney general or the appropriate district attorney.

D. When commission action on a complaint is suspended pursuant to the provisions of this section, the respondent shall promptly be notified that a complaint has been filed and of the specific allegations in the complaint and the specific violations charged in the complaint.

SECTION 16. PROHIBITED ACTIONS.--

A. A person shall not take or threaten to take any retaliatory, disciplinary or other adverse action against another person who in good faith:

(1) files a verified complaint with the commission that alleges a violation; or

(2) provides testimony, records, documents or other information to the commission during an investigation or at a hearing.

B. A complainant and a respondent shall not
communicate ex parte with any hearing officer, commissioner
or other person involved in a determination of the complaint.

C. Nothing in the State Ethics Commission Act
precludes civil or criminal actions for libel or slander or
other civil or criminal actions against a person who files a
false claim.

SECTION 17. Section 1-19-32 NMSA 1978 (being Laws 1979,
Chapter 360, Section 8, as amended) is amended to read:

"1-19-32. INSPECTION OF PUBLIC RECORDS.--

A. Each of the following documents is a public
record open to public inspection during regular office hours
in the office in which the document was filed or from which
the document was issued:

(1) a statement of no activity;

(2) a report of expenditures and
contributions;

(3) an advisory opinion issued by the state
ethics commission; except for the name of the person who
requested the opinion;

(4) a document specified as a public record
in the Campaign Reporting Act; and

(5) an arbitration decision issued by an
arbitration panel and filed with the secretary of state or
state ethics commission.

B. Each public record described in Subsection A of
this section shall be retained by the state for five years
and may be destroyed five years after the date of filing
unless a legal action or prosecution is pending that requires
the preservation of the public record.

C. The secretary of state shall provide for
electronic access to reports of expenditures and
contributions and statements of no activity submitted
electronically by reporting individuals. Electronic access
shall include access via the internet and shall be in an
easily searchable format."

SECTION 18. Section 1-19-34.1 NMSA 1978 (being
Laws 1993, Chapter 46, Section 12, as amended) is amended to
read:

"1-19-34.1. LEGISLATIVE SESSION FUNDRAISING
PROHIBITION.--

A. It is unlawful during the prohibited period for
a state legislator, the attorney general, the secretary of
state, the state treasurer, the commissioner of public lands
or the state auditor or a candidate for state legislator,
attorney general, secretary of state, state treasurer,
commissioner of public lands or state auditor, or any agent
on behalf of the attorney general, the secretary of state,
the state treasurer, the commissioner of public lands or the
state auditor or a candidate for attorney general, the
secretary of state, state treasurer, commissioner of public
lands or state auditor, to knowingly solicit a contribution governed by the Campaign Reporting Act. For purposes of this subsection, "prohibited period" means 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 adjournment of the regular or special session.

B. It is unlawful during the prohibited period for the governor or the lieutenant governor, or any agent on the governor's or the lieutenant governor's behalf, to knowingly solicit a contribution governed by the Campaign Reporting Act. For purposes of this subsection, "prohibited period" means 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 the twentieth day following the adjournment of the regular or special session."

SECTION 19. A new section of the Campaign Reporting Act is enacted to read:

"STATE ETHICS COMMISSION--JURISDICTION.---

A. On and after January 1, 2020:

(1) the state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Campaign Reporting Act in accordance with the provisions of that act;"
and

(2) the state ethics commission shall share jurisdiction to investigate and adjudicate complaints, or any aspect of a complaint, with the secretary of state as formalized through an agreement. The secretary of state shall forward complaints it receives alleging violations of the Campaign Reporting Act to the state ethics commission in accordance with the agreement.

B. The state ethics commission and the secretary of state shall make recommendations to the first session of the fifty-fifth legislature on any changes to the Campaign Reporting Act necessary for the efficient administration and enforcement of the provisions of that act."

SECTION 20. A new section of the Voter Action Act is enacted to read:

"STATE ETHICS COMMISSION--JURISDICTION.--

A. On and after January 1, 2020:

(1) the state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Voter Action Act in accordance with the provisions of that act; and

(2) the state ethics commission shall share jurisdiction to investigate and adjudicate complaints, or any aspect of a complaint, with the secretary of state as formalized through an agreement. The secretary of state
shall forward complaints it receives alleging violations of
the Voter Action Act to the state ethics commission in
accordance with the agreement.

B. The state ethics commission and the secretary
of state shall make recommendations to the first session of
the fifty-fifth legislature on any changes to the Voter
Action Act necessary for the efficient administration and
enforcement of the provisions of that act."

SECTION 21. A new section of the Lobbyist Regulation
Act is enacted to read:

"STATE ETHICS COMMISSION--JURISDICTION.--

A. On and after January 1, 2020:

(1) the state ethics commission shall have
jurisdiction to investigate and adjudicate a complaint
alleging a civil violation of a provision of the Lobbyist
Regulation Act in accordance with the provisions of that act;
and

(2) the state ethics commission shall share
jurisdiction to investigate and adjudicate complaints, or any
aspect of a complaint, with the secretary of state as
formalized through an agreement. The secretary of state
shall forward complaints it receives alleging violations of
the Lobbyist Regulation Act to the state ethics commission in
accordance with the agreement.

B. The state ethics commission and the secretary
of state shall make recommendations to the first session of the fifty-fifth legislature on any changes to the Lobbyist Regulation Act necessary for the efficient administration and enforcement of the provisions of that act."

SECTION 22. Section 2-15-8 NMSA 1978 (being Laws 1993, Chapter 46, Section 53) is amended to read:

"2-15-8. INTERIM LEGISLATIVE ETHICS COMMITTEE--DUTIES.--

A. The interim legislative ethics committee is authorized to:

(1) issue advisory opinions on the interpretation and enforcement of ethical principles as applied to the legislature and that are not under the jurisdiction of the state ethics commission;

(2) investigate complaints from another member of the legislature or a member of the public alleging misconduct of a legislator;

(3) investigate referrals made to the co-chairs of the New Mexico legislative council from the state ethics commission, the attorney general, the secretary of state or a district attorney;

(4) hire special counsel, arbitrators or independent hearing officers as necessary; and

(5) make recommendations to the respective houses regarding proposed sanctions for ethical misconduct.
B. The interim legislative ethics committee shall issue an annual report no later than the first day of May of each year regarding its activities during the previous twelve months, including a listing of the number of complaints received, the disposition of the complaints that have been resolved and the advisory opinions issued.

C. The interim legislative ethics committee shall maintain a web page on the legislature's website.

SECTION 23. Section 10-16-11 NMSA 1978 (being Laws 1967, Chapter 306, Section 11, as amended) is amended to read:

"10-16-11. CODES OF CONDUCT.--

A. Each elected statewide executive branch public officer shall adopt a general code of conduct for employees subject to the officer's control. The New Mexico legislative council shall adopt a general code of conduct for all legislative branch employees. The general codes of conduct shall be based on the principles set forth in the Governmental Conduct Act.

B. Within thirty days after the general codes of conduct are adopted, they shall be given to and reviewed with all executive and legislative branch officers and employees. All new public officers and employees of the executive and legislative branches shall review the employees' general code of conduct prior to or at the time of being hired.
C. The head of every executive and legislative agency and institution of the state may draft a separate code of conduct for all public officers and employees in that agency or institution. The separate agency code of conduct shall prescribe standards, in addition to those set forth in the Governmental Conduct Act and the general codes of conduct for all executive and legislative branch public officers and employees, that are peculiar and appropriate to the function and purpose for which the agency or institution was created or exists. The separate codes, upon approval of the responsible executive branch public officer for executive branch public officers and employees or the New Mexico legislative council for legislative branch employees, govern the conduct of the public officers and employees of that agency or institution and, except for those public officers and employees removable only by impeachment, shall, if violated, constitute cause for dismissal, demotion or suspension. The head of each executive and legislative branch agency shall adopt ongoing education programs to advise public officers and employees about the codes of conduct. All codes shall be filed with the state ethics commission and are open to public inspection.

D. Codes of conduct shall be reviewed at least once every four years. An amended code shall be filed as provided in Subsection C of this section.
E. All legislators shall attend a minimum of two hours of ethics continuing education and training developed and provided, in consultation with the director of the legislative council service, by the state ethics commission or a national state legislative organization of which the state is a member, approved by the director, biennially."

SECTION 24. Section 10-16-13.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 35) is amended to read:

"10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

A. The state ethics commission shall advise and seek to educate all persons required to perform duties under the Governmental Conduct Act of those duties. This includes advising all those persons at least annually of that act's ethical principles.

B. The state ethics commission shall seek first to ensure voluntary compliance with the provisions of the Governmental Conduct Act. A person who violates that act unintentionally or for good cause shall be given ten days' notice to correct the matter. Referrals for civil enforcement of that act shall be pursued only after efforts to secure voluntary compliance with that act have failed."

SECTION 25. Section 10-16-14 NMSA 1978 (being Laws 1967, Chapter 306, Section 14, as amended) is amended to read:

"10-16-14. ENFORCEMENT PROCEDURES.--
A. The state ethics commission may investigate suspected violations of the Governmental Conduct Act and forward its findings and evidence to the attorney general, district attorney or appropriate state agency or legislative body for enforcement. If a suspected violation involves the office of the state ethics commission, the attorney general may enforce that act. If a suspected violation involves the office of the attorney general, a district attorney may enforce that act.

B. Violation of the provisions of the Governmental Conduct Act by any legislator is grounds for discipline by the appropriate legislative body.

C. If the state ethics commission determines that there is sufficient cause to file a complaint to remove from office a public officer removable only by impeachment, the commission shall refer the matter to the house of representatives of the legislature. If within thirty days after the referral the house of representatives has neither formally declared that the charges contained in the complaint are not substantial nor instituted hearings on the complaint, the state ethics commission shall make public the nature of the charges but shall make clear that the merits of the charges have never been determined. Days during which the legislature is not in session shall not be included in determining the thirty-day period.
D. Violation of the provisions of the Governmental Conduct Act by any public officer or employee, other than those covered by Subsection C of this section, is grounds for discipline, including dismissal, demotion or suspension. Complaints against executive branch employees may be filed with the agency head and reviewed pursuant to the procedures provided in the Personnel Act. Complaints against legislative branch employees may be filed with and reviewed pursuant to procedures adopted by the New Mexico legislative council. Complaints against judicial branch employees may be filed and reviewed pursuant to the procedures provided in the judicial personnel rules. Complaints against employees subject to the State Ethics Commission Act may also be filed with the state ethics commission, which shall determine whether to forward a complaint to the appropriate state agency or investigate the complaint on its own.

E. Subject to the provisions of this section, the provisions of the Governmental Conduct Act may be enforced by the state ethics commission. Except as regards legislators, state employees or statewide elected officials, a district attorney in the county where a person who allegedly violated the provisions resides or where an alleged violation occurred may also enforce that act. Enforcement actions may include seeking civil injunctive or other appropriate orders."

SECTION 26. Section 10-16-18 NMSA 1978 (being
Laws 1995, Chapter 153, Section 23) is amended to read:

"10-16-18. ENFORCEMENT--CIVIL PENALTIES.--

A. If the state ethics commission reasonably believes that a person committed, or is about to commit, a violation of the Governmental Conduct Act, the state ethics commission may refer the matter to the attorney general or a district attorney for enforcement.

B. The state ethics commission may institute a civil action in district court or refer a matter to the attorney general or a district attorney to institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Governmental Conduct Act. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of two hundred fifty dollars ($250) for each violation not to exceed five thousand dollars ($5,000).

SECTION 27. Section 10-16A-1 NMSA 1978 (being Laws 1993, Chapter 46, Section 39) is amended to read:

"10-16A-1. SHORT TITLE--FINANCIAL DISCLOSURE ACT.--

Chapter 10, Article 16A NMSA 1978 may be cited as the "Financial Disclosure Act".

SECTION 28. Section 10-16A-5 NMSA 1978 (being Laws 1993, Chapter 46, Section 43) is amended to read:

"10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--
A. The secretary of state shall advise and seek to educate all persons required to perform duties under the Financial Disclosure Act of those duties. This includes providing timely advance notice of the required financial disclosure statement and preparing forms that are clear and easy to complete.

B. The secretary of state shall seek first to ensure voluntary compliance with the provisions of the Financial Disclosure Act. A person who violates that act unintentionally or for good cause shall be given ten days' notice to correct the matter before fines are imposed. Referrals to the state ethics commission for civil enforcement of the Financial Disclosure Act shall be pursued only after efforts to secure voluntary compliance with that act have failed."

SECTION 29. Section 10-16A-6 NMSA 1978 (being Laws 1993, Chapter 46, Section 44, as amended) is amended to read:

"10-16A-6. INVESTIGATIONS--BINDING ARBITRATION--FINES--ENFORCEMENT.--

A. The state ethics commission and the secretary of state may conduct thorough examinations of statements and initiate investigations to determine whether the Financial Disclosure Act has been violated. Any person who believes that act has been violated may file a written complaint with
the state ethics commission. The commission shall adopt procedures for processing complaints and notifications of violations.

B. If the state ethics commission determines that a violation has occurred for which a penalty should be imposed, the commission shall so notify the person charged and impose the penalty. If the person charged disputes the commission's determination, the person charged may request binding arbitration.

C. The arbitration decision shall be decided by a single arbitrator selected within ten days by the person against whom the penalty has been imposed from a list of five arbitrators provided by the state ethics commission. No arbitrator may be a person subject to the Financial Disclosure Act, Campaign Reporting Act or Lobbyist Regulation Act. Arbitrators shall be considered to be independent contractors, not public officers or employees, and shall not be paid per diem and mileage.

D. The arbitrator may take any action the state ethics commission is authorized to take. The arbitrator shall state the reasons for the decision in a written document that shall be a public record. The decision shall be final and binding. The decision shall be issued within thirty days of the conclusion of the hearing. Unless otherwise provided for in this section, or by rule or
regulation adopted by the state ethics commission, the
procedures for the arbitration shall be governed by the
Uniform Arbitration Act. No arbitrator shall be subject to
liability for actions taken pursuant to this section.

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

F. The secretary of state may refer a matter to
the state ethics commission, attorney general or a district
attorney for a civil injunctive or other appropriate order or
enforcement."

SECTION 30. Section 10-16A-8 NMSA 1978 (being
Laws 1995, Chapter 153, Section 25) is amended to read:

"10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--

A. If the state ethics commission reasonably
believes that a person committed, or is about to commit, a
violation of the Financial Disclosure Act, the commission may
refer the matter to the attorney general or a district
attorney for enforcement.
B. The state ethics commission may institute a civil action in district court or refer a matter to the attorney general or a district attorney to institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Financial Disclosure Act. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of two hundred fifty dollars ($250) for each violation not to exceed five thousand dollars ($5,000).

SECTION 31. Section 10-16B-1 NMSA 1978 (being Laws 2007, Chapter 226, Section 1) is amended to read:

"10-16B-1. SHORT TITLE.--Chapter 10, Article 16B NMSA 1978 may be cited as the "Gift Act"."

SECTION 32. A new section of the Gift Act is enacted to read:

"INVESTIGATIONS--COMPLAINTS--ENFORCEMENT.--

A. The state ethics commission may initiate investigations to determine whether the provisions of the Gift Act have been violated. A person who believes that a violation of the Gift Act has occurred may file a complaint with the state ethics commission.

B. If the state ethics commission determines that a violation has occurred, the commission shall refer the matter to the attorney general for criminal prosecution."
SECTION 33. A new section of the Procurement Code is enacted to read:

"STATE ETHICS COMMISSION JURISDICTION.--The state ethics commission may investigate complaints against a contractor who has a contract with a state agency or a person who has submitted a competitive sealed proposal or competitive sealed bid for a contract with a state agency. The state ethics commission may impose the civil penalties authorized in Sections 13-1-196 through 13-1-198 NMSA 1978 pursuant to the provisions of those sections."

SECTION 34. Section 13-1-196 NMSA 1978 (being Laws 1984, Chapter 65, Section 169) is amended to read:

"13-1-196. CIVIL PENALTY.--Any person, firm or corporation that knowingly violates any provision of the Procurement Code is subject to a civil penalty of not more than one thousand dollars ($1,000) for each procurement in violation of any provision of the Procurement Code. The district attorney in the jurisdiction in which the violation occurs or the state ethics commission is empowered to bring a civil action for the enforcement of any provision of the Procurement Code; provided that the commission may refer a matter for enforcement to the attorney general or the district attorney in the jurisdiction in which the violation occurred. Any penalty collected under the provisions of this section shall be credited to the general fund of the
political subdivision in which the violation occurred and on
whose behalf the suit was brought."

SECTION 35. Section 2-6-1 NMSA 1978 (being
Laws 1961, Chapter 2, Section 1, as amended) is amended to
read:

"2-6-1. LIMIT ON THE TIME WITHIN WHICH BILLS MAY BE
INTRODUCED.--

A. Legislation shall not be accepted for filing
until after the beginning of the prohibited period for
soliciting campaign contributions provided for in
Section 1-19-34.1 NMSA 1978.

B. 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
subsection 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."

SECTION 36. Section 34-10-2.1 NMSA 1978 (being
Laws 1977, Chapter 289, Section 1) is amended to read:

"34-10-2.1. JUDICIAL STANDARDS COMMISSION--DUTIES--
SUBPOENA POWER.--
A. Pursuant to the judicial standards commission's authority granted by Article 6, Section 32 of the constitution of New Mexico, any justice, judge or magistrate of any court may be disciplined or removed for willful misconduct in office, persistent failure or inability to perform the judge's duties or habitual intemperance, or may be retired for a disability that seriously interferes with the performance of the justice's, judge's or magistrate's duties and that is, or is likely to become, of a permanent character. The judicial standards commission is granted the same authority to regulate the conduct and character of court-appointed commissioners, hearing officers, administrative law judges or special masters while acting in a judicial capacity.

B. With respect to the officials listed in Subsection A of this section, the judicial standards commission shall:

(1) investigate all charges, complaints and allegations as to willful misconduct in office, persistent failure or inability to perform official duties or habitual intemperance, if the commission deems necessary, and hold a hearing on the charges, complaints or allegations concerning the discipline or removal of the official;

(2) investigate and, if the commission deems necessary, hold hearings on any charge, complaint or
allegation that an official listed in Subsection A of this section has suffered a disability that is seriously interfering with the performance of the official's duties and that is, or is likely to become, of a permanent character;

(3) if the commission deems it necessary or convenient, appoint three masters, who are justices or judges of courts of record, to hear and take evidence in any matter arising under Paragraph (1) or (2) of this subsection who shall report their findings to the commission; and

(4) after a hearing deemed necessary pursuant to Paragraph (2) of this subsection or after considering the record and the findings and report of the masters, if the commission finds good cause, recommend to the supreme court the discipline, removal or retirement of the official.

C. In any investigation or hearing held under the provisions of this section, the commission may administer oaths and, with the concurrence of a majority of the members of the commission, petition a district court to subpoena witnesses, compel their attendance and examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation upon a showing of probable cause."

SECTION 37. TEMPORARY PROVISION--REPORT ON EXTENSION OF
JURISDICTION.--

A. By October 1, 2021, the state ethics commission shall submit a report to the legislature and the office of the governor regarding whether to extend commission jurisdiction.

B. If the report recommends extension of the state ethics commission's jurisdiction, the report shall address:

(1) a detailed plan for implementation of an extension of the commission's jurisdiction and a proposed time line for the implementation;

(2) the estimated number of additional employees and other resources needed by the commission to perform its expanded duties;

(3) estimated budget increases needed for the commission to perform its expanded duties; and

(4) recommended changes to existing law.

SECTION 38. TEMPORARY PROVISION--COMPILER'S INSTRUCTION.--The New Mexico compilation commission shall rename Chapter 2, Article 15 NMSA 1978 "Legislative Ethics".

SECTION 39. REPEAL.--Sections 2-15-1 through 2-15-6 NMSA 1978 (being Laws 1993, Chapter 46, Sections 46 through 51) are repealed.

SECTION 40. APPLICABILITY.--The provisions of the State Ethics Commission Act apply only to conduct occurring on or after July 1, 2019.
SECTION 41. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 8, 34, 37 and 38 of this act is July 1, 2019.

B. The effective date of the provisions of Sections 9 through 33 and 36 of this act is January 1, 2020.

C. The effective date of the provisions of Section 35 of this act is July 1, 2020.

SECTION 42. EFFECTIVE DATE.--The effective date of the provisions of Section 18 of this act is January 1, 2020.