AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
ADDRESSING COLLECTIVE BARGAINING IN THE PUBLIC SECTOR;
ADDRESSING BARGAINING UNIT ELECTION PROCEDURES, REASONABLE
ACCESS TO EMPLOYEES, SCOPE OF BARGAINING AND EMPLOYER
PROHIBITED PRACTICES; MODIFYING THE PUBLIC EMPLOYEE
BARGAINING ACT TO CLARIFY REMEDIES AVAILABLE TO THE PUBLIC
EMPLOYEE LABOR RELATIONS BOARD; IMPOSING REQUIREMENTS ON
LOCAL LABOR BOARDS; REQUIRING NOTICE OF RULES AND MEMBERSHIP;
PROVIDING FOR RETENTION OF JOBS WITHIN A BARGAINING UNIT;
REPEALING AND REENACTING SECTION 10-7E-10 NMSA 1978 (BEING
LAWS 2003, CHAPTER 4, SECTION 10 AND LAWS 2003, CHAPTER 5,
SECTION 10); REPEALING SECTIONS 10-7E-11 AND 10-7E-26 NMSA
1978 (BEING LAWS 2003, CHAPTER 4, SECTION 11 AND LAWS 2003,
CHAPTER 5, SECTION 11; AND LAWS 2003, CHAPTER 4, SECTION 26
AND LAWS 2003, CHAPTER 5, SECTION 26).

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

SECTION 1. Section 10-7E-3 NMSA 1978 (being Laws 2003,
Chapter 4, Section 3 and Laws 2003, Chapter 5, Section 3) is
amended to read:

"10-7E-3. CONFLICTS.--In the event of conflict with
other laws, the provisions of the Public Employee Bargaining
Act shall supersede other previously enacted legislation and
rules; provided that the Public Employee Bargaining Act shall
not supersede the provisions of the Bateman Act, the
Personnel Act, the Group Benefits Act, the Per Diem and
Mileage Act, the Retiree Health Care Act, public employee
retirement laws or the Tort Claims Act."

SECTION 2. Section 10-7E-4 NMSA 1978 (being Laws 2003,
Chapter 4, Section 4 and Laws 2003, Chapter 5, Section 4) is
amended to read:

"10-7E-4. DEFINITIONS.--As used in the Public Employee
Bargaining Act:

A. "appropriate bargaining unit" means a group of
public employees designated by the board or local board for
the purpose of collective bargaining;

B. "appropriate governing body" means the
policymaking body or individual representing a public
employer as designated in Section 10-7E-7 NMSA 1978;

C. "authorization card" means a signed affirmation
by a member of an appropriate bargaining unit designating a
particular organization as exclusive representative;

D. "board" means the public employee labor
relations board;

E. "certification" means the designation by the
board or local board of a labor organization as the exclusive
representative for all public employees in an appropriate
bargaining unit;

F. "collective bargaining" means the act of
negotiating between a public employer and an exclusive representative for the purpose of entering into a written agreement regarding wages, hours and other terms and conditions of employment;

G. "confidential employee" means a person who devotes a majority of the person's time to assisting and acting in a confidential capacity with respect to a person who formulates, determines and effectuates management policies;

H. "emergency" means a one-time crisis that was unforeseen and unavoidable;

I. "exclusive representative" means a labor organization that, as a result of certification, has the right to represent all public employees in an appropriate bargaining unit for the purposes of collective bargaining;

J. "impasse" means failure of a public employer and an exclusive representative, after good-faith bargaining, to reach agreement in the course of negotiating a collective bargaining agreement;

K. "labor organization" means an employee organization, one of whose purposes is the representation of public employees in collective bargaining and in otherwise meeting, consulting and conferring with employers on matters pertaining to employment relations;

L. "local board" means a local labor relations
board established by a public employer, other than the state, through ordinance, resolution or charter amendment, and which continues to exist by virtue of the election described in Subsection B of Section 10-7E-10 NMSA 1978;

M. "lockout" means an act by a public employer to prevent its employees from going to work for the purpose of resisting the demands of the employees' exclusive representative or for the purpose of gaining a concession from the exclusive representative;

N. "management employee" means an employee who is engaged primarily in executive and management functions and is charged with the responsibility of developing, administering or effectuating management policies. An employee shall not be deemed a management employee solely because the employee participates in cooperative decision-making programs or whose fiscal responsibilities are routine, incidental or clerical;

O. "mediation" means assistance by an impartial third party to resolve an impasse between a public employer and an exclusive representative regarding employment relations through interpretation, suggestion and advice;

P. "professional employee" means an employee whose work is predominantly intellectual and varied in character and whose work involves the consistent exercise of discretion and judgment in its performance and requires knowledge of an
advanced nature in a field of learning customarily requiring
specialized study at an institution of higher education or
its equivalent. The work of a professional employee is of
such character that the output or result accomplished cannot
be standardized in relation to a given period of time;

Q. "public employee" means a regular
nonprobationary employee of a public employer; provided that,
in the public schools, "public employee" shall also include a
regular probationary employee and includes those employees
whose work is funded in whole or in part by grants or other
third-party sources;

R. "public employer" means the state or a
political subdivision thereof, including a municipality that
has adopted a home rule charter, and does not include a
government of an Indian nation, tribe or pueblo, provided
that state educational institutions as provided in
Article 12, Section 11 of the constitution of New Mexico
shall be considered public employers other than the state for
collective bargaining purposes only;

S. "strike" means a public employee's refusal, in
c Once  concerted action with other public employees, to report for
duty or the willful absence in whole or in part from the
full, faithful and proper performance of the duties of
employment for the purpose of inducing, influencing or
coercing a change in the conditions, compensation, rights,
privileges or obligations of public employment; and

T. "supervisor" means an employee who devotes a majority of work time to supervisory duties, who customarily and regularly directs the work of two or more other employees and who has the authority in the interest of the employer to hire, promote or discipline other employees or to recommend such actions effectively, but "supervisor" does not include an individual who performs merely routine, incidental or clerical duties or who occasionally assumes a supervisory or directory role or whose duties are substantially similar to those of the individual's subordinates and does not include a lead employee or an employee who participates in peer review or occasional employee evaluation programs."

SECTION 3. Section 10-7E-5 NMSA 1978 (being Laws 2003, Chapter 4, Section 5 and Laws 2003, Chapter 5, Section 5) is amended to read:

"10-7E-5. RIGHTS OF PUBLIC EMPLOYEES.--

A. Public employees, other than management employees and confidential employees, may form, join or assist a labor organization for the purpose of collective bargaining through representatives chosen by public employees without interference, restraint or coercion and shall have the right to refuse those activities.

B. Public employees have the right to engage in other concerted activities for mutual aid or benefit. This
right shall not be construed as modifying the prohibition on
strikes set forth in Section 10-7E-21 NMSA 1978."

SECTION 4. Section 10-7E-9 NMSA 1978 (being Laws 2003,
Chapter 4, Section 9 and Laws 2003, Chapter 5, Section 9) is
amended to read:

"10-7E-9. BOARD AND LOCAL BOARD--POWERS AND DUTIES.--

A. The board or a local board shall promulgate
rules necessary to accomplish and perform its functions and
duties as established in the Public Employee Bargaining Act,
including the establishment of procedures for:

(1) the designation of appropriate
bargaining units;

(2) the selection, certification and
decertification of exclusive representatives; and

(3) the filing of, hearing on and
determination of complaints of prohibited practices.

B. The board or a local board shall:

(1) hold hearings and make inquiries
necessary to carry out its functions and duties;

(2) conduct studies on problems pertaining
to employee-employer relations; and

(3) request from public employers and labor
organizations the information and data necessary to carry out
the board's or the local board's functions and
responsibilities.
C. The board or a local board may issue subpoenas requiring, upon reasonable notice, the attendance and testimony of witnesses and the production of evidence, including books, records, correspondence or documents relating to the matter in question. The board or a local board may prescribe the form of subpoena, but it shall adhere insofar as practicable to the form used in civil actions in the district court. The board or a local board may administer oaths and affirmations, examine witnesses and receive evidence.

D. The board or a local board shall decide issues by majority vote and each shall issue its decisions in the form of written orders and opinions.

E. The board or a local board may hire personnel or contract with third parties as each deems necessary to assist it in carrying out its functions and each may delegate any or all of its authority to those third parties, subject to final review of the board or local board.

F. The board or a local board each has the power to enforce provisions of the Public Employee Bargaining Act through the imposition of appropriate administrative remedies, actual damages related to dues, back pay including benefits, reinstatement with the same seniority status that the employee would have had but for the violation, declaratory or injunctive relief or provisional remedies,
including temporary restraining orders or preliminary
injunctions. No punitive damages or attorney fees may be
awarded by the board or local board.

G. Local board rules shall conform to the rules
adopted by the board and shall not be effective until
approved by an order of the board. On good cause shown, the
board may approve rules proposed by a local board, which
rules vary from rules of the board. All rules promulgated by
a local board shall comply with state law. A rule
promulgated by the board or a local board shall not require,
directly or indirectly, as a condition of continuous
employment, a public employee covered by the Public Employee
Bargaining Act to pay money to a labor organization that is
certified as an exclusive representative.

H. The board shall maintain current versions of
its rules and current versions of the rules of each local
board on a publicly accessible website. That website shall
also include a current listing of the members of the board
and the members of each local board. Each local board shall
notify the board, within thirty days of revisions of its
rules or changes in its membership, of any such revisions of
its rules or changes in its membership."

SECTION 5. Section 10-7E-10 NMSA 1978 (being Laws 2003,
Chapter 4, Section 10 and Laws 2003, Chapter 5, Section 10)
is repealed and a new Section 10-7E-10 NMSA 1978 is enacted
"10-7E-10. LOCAL BOARDS--CONDITIONS OF CONTINUED EXISTENCE--TRANSFER OF AUTHORITY UPON TERMINATION-- PROHIBITION OF NEW LOCAL BOARDS.--

A. All local boards shall continue to exist except as provided in Subsections B through J of this section.

B. No later than December 31, 2020, each local board shall submit to the board copies of a revised local ordinance, resolution or charter amendment authorizing continuation of the local board. A local board that fails to meet the submission deadline set forth in this subsection shall cease to exist on January 1, 2021. No later than February 15, 2021, the board shall determine whether the local ordinance, resolution or charter amendment authorizing continuation of a local board provides the same or greater rights to public employees and labor organizations as the Public Employee Bargaining Act, allows for the determination of, and remedies for, an action that would constitute a prohibited practice under the Public Employee Bargaining Act and contains impasse resolution procedures equivalent to those set forth in Section 10-7E-18 NMSA 1978. If the board determines that a local ordinance, resolution or charter amendment authorizing continuation of a local board does not satisfy the requirements of this subsection, defects may be cured by June 30, 2021 or the local board will cease to
exist. The board shall certify by written order whether the requirements of this subsection have been met.

C. No later than April 30, 2021, each local board shall submit to the board copies of its rules. A local board that fails to meet the submission deadline set forth in this subsection shall cease to exist on July 1, 2021. No later than May 30, 2021, the board shall determine whether the rules of a local board conform to the rules of the board, or for good cause shown, any variances meet the requirements of the Public Employee Bargaining Act. If the board determines that the rules of a local board do not meet the requirements of this subsection, the local board may cure any defects by June 30, 2021, or it will cease to exist. The board shall certify by written order whether the requirements of this subsection have been met by a local board.

D. A local board existing as of July 1, 2021 shall continue to exist after December 31, 2021 only if it has submitted to the board an affirmation that:

(1) the public employer subject to the local board has affirmatively elected to continue to operate under the local board; and

(2) each labor organization representing employees of the public employer subject to the local board has submitted a written notice to the board that it affirmatively elects to continue to operate under the local
board.

E. The affirmation required pursuant to Subsection D of this section shall be submitted to the board by each local board between November 1 and December 31 of each odd-numbered year. A local board that fails to timely submit the affirmation required by this subsection shall cease to exist as of January 1 of the next even-numbered year.

F. Beginning on July 1, 2020, if at any time thereafter a local board has a membership vacancy exceeding sixty days in length, the local board shall cease to exist.

G. A local board may cease to exist upon:

1. a repeal of the local ordinance, resolution or charter amendment authorizing continuation of the local board; or

2. a vote of a local board, which vote is filed with the board.

H. Once a local board ceases to exist for any reason, it may not be revived.

I. Whenever a local board ceases to exist, all matters pending before such local board shall be transferred to the board for resolution.

J. After June 30, 2020, no new local board may be created.

SECTION 6. Section 10-7E-13 NMSA 1978 (being Laws 2003, Chapter 4, Section 13 and Laws 2003, Chapter 5, Section 13)
is amended to read:

"10-7E-13.  APPROPRIATE BARGAINING UNITS.--

A. The board or local board shall, upon receipt of a petition for a representation election filed by a labor organization, designate the appropriate bargaining units for collective bargaining. Appropriate bargaining units shall be established on the basis of occupational groups or clear and identifiable communities of interest in employment terms and conditions and related personnel matters among the public employees involved. Occupational groups shall generally be identified as blue-collar, secretarial clerical, technical, professional, paraprofessional, police, fire and corrections. The parties, by mutual agreement, may further consolidate occupational groups. Essential factors in determining appropriate bargaining units shall include the principles of efficient administration of government, the history of collective bargaining and the assurance to public employees of the fullest freedom in exercising the rights guaranteed by the Public Employee Bargaining Act.

B. Within thirty days of a disagreement arising between a public employer and a labor organization concerning the composition of an appropriate bargaining unit, the board or local board shall hold a hearing concerning the composition of the bargaining unit before designating an appropriate bargaining unit.
C. The board or local board shall not include in an appropriate bargaining unit supervisors, managers or confidential employees.

D. Jobs included within a bargaining unit pursuant to a local ordinance in effect on January 1, 2020 shall remain in that bargaining unit.”

SECTION 7. Section 10-7E-14 NMSA 1978 (being Laws 2003, Chapter 4, Section 14 and Laws 2003, Chapter 5, Section 14) is amended to read:

"10-7E-14. ELECTIONS.--

A. Whenever, in accordance with rules prescribed by the board or local board, a petition is filed by a labor organization containing the signatures of at least thirty percent of the public employees in an appropriate bargaining unit, the board or local board shall conduct a secret ballot representation election to determine whether and by which labor organization the public employees in the appropriate bargaining unit shall be represented. Upon acceptance of a valid petition, the board or a local board shall require the public employer to provide the labor organization within ten business days the names, job titles, work locations, home addresses, personal email addresses and home or cellular telephone numbers of any public employee in the proposed bargaining unit. This information shall be kept confidential by the labor organization and its employees or officers. The
ballot shall contain the name of any labor organization
submitting a petition containing signatures of at least
thirty percent of the public employees in the appropriate
bargaining unit. The ballot shall also contain a provision
allowing public employees to indicate whether they do not
desire to be represented by a labor organization. An
election shall only be valid if forty percent of the eligible
employees in the bargaining unit vote in the election.

B. Once a labor organization has filed a valid
petition with the board or local board calling for a
representation election, other labor organizations may seek
to be placed on the ballot. Such an organization shall file
a petition containing the signatures of not less than thirty
percent of the public employees in the appropriate bargaining
unit no later than ten days after the board or the local
board and the public employer post a written notice that the
petition in Subsection A of this section has been filed by a
labor organization.

C. As an alternative to the provisions of
Subsection A of this section, a labor organization with a
reasonable basis for claiming to represent a majority of the
employees in an appropriate bargaining unit may submit
authorization cards from a majority of the employees in an
appropriate bargaining unit to the board or local board,
which shall, upon verification that a majority of the
employees in the appropriate bargaining unit have signed valid authorization cards, certify the labor organization as the exclusive representative of all public employees in the appropriate bargaining unit. The employer may challenge the verification of the board or local board; the board or local board shall hold a fact-finding hearing on the challenge to confirm that a majority of the employees in the appropriate bargaining unit have signed valid authorization cards.

D. If a labor organization receives a majority of votes cast, it shall be certified as the exclusive representative of all public employees in the appropriate bargaining unit. Within fifteen days of an election in which no labor organization receives a majority of the votes cast, a runoff election between the two choices receiving the largest number of votes cast shall be conducted. The board or local board shall certify the results of the election, and, when a labor organization receives a majority of the votes cast, the board or local board shall certify the labor organization as the exclusive representative of all public employees in the appropriate bargaining unit.

E. An election shall not be conducted if an election or runoff election has been conducted in the twelve-month period immediately preceding the proposed representation election. An election shall not be held during the term of an existing collective bargaining
agreement, except as provided in Section 10-7E-16 NMSA 1978."

SECTION 8. Section 10-7E-15 NMSA 1978 (being Laws 2003, Chapter 4, Section 15 and Laws 2003, Chapter 5, Section 15) is amended to read:

"10-7E-15. EXCLUSIVE REPRESENTATION.--

A. A labor organization that has been certified by the board or local board as representing the public employees in the appropriate bargaining unit shall be the exclusive representative of all public employees in the appropriate bargaining unit. The exclusive representative shall act for all public employees in the appropriate bargaining unit and negotiate a collective bargaining agreement covering all public employees in the appropriate bargaining unit. The exclusive representative shall represent the interests of all public employees in the appropriate bargaining unit without discrimination or regard to membership in the labor organization. A claim by a public employee that the exclusive representative has violated this duty of fair representation shall be forever barred if not brought within six months of the date on which the public employee knew, or reasonably should have known, of the violation.

B. This section does not prevent a public employee, acting individually, from presenting a grievance without the intervention of the exclusive representative. At a hearing on a grievance brought by a public employee
individually, the exclusive representative shall be afforded
the opportunity to be present and make its views known. An
adjustment made shall not be inconsistent with or in
violation of the collective bargaining agreement then in
effect between the public employer and the exclusive
representative.

C. A public employer shall provide an exclusive
representative of an appropriate bargaining unit reasonable
access to employees within the bargaining unit, including the
following:

(1) for purposes of newly hired employees in
the bargaining unit, reasonable access includes:

(a) the right to meet with new
employees, without loss of employee compensation or leave
benefits; and

(b) the right to meet with new
employees within thirty days from the date of hire for a
period of at least thirty minutes but not more than one
hundred twenty minutes, during new employee orientation or,
if the public employer does not conduct new employee
orientations, at individual or group meetings; and

(2) for purposes of employees in the
bargaining unit who are not new employees, reasonable access
includes:

(a) the right to meet with employees
during the employees' regular work hours at the employees' regular work location to investigate and discuss grievances, workplace-related complaints and other matters relating to employment relations; and

(b) the right to conduct meetings at the employees' regular work location before or after the employees' regular work hours, during meal periods and during any other break periods.

D. A public employer shall permit an exclusive representative to use the public employer's facilities or property, whether owned or leased by the employer, for purposes of conducting meetings with the represented employees in the bargaining unit. An exclusive representative may hold the meetings described in this section at a time and place set by the exclusive representative. The exclusive representative shall have the right to conduct the meetings without undue interference and may establish reasonable rules regarding appropriate conduct for meeting attendees.

E. The meetings described in this section shall not interfere with the public employer's operations.

F. If a public employer has the information in the employer's records, the public employer shall provide to the exclusive representative, in an editable digital file format agreed to by the exclusive representative, the following
information for each employee in an appropriate bargaining unit:

   (1)  the employee's name and date of hire;

   (2)  contact information, including:

          (a)  cellular, home and work telephone numbers;

          (b)  a means of electronic communication, including work and personal electronic mail addresses; and

          (c)  home address or personal mailing address; and

   (3)  employment information, including the employee's job title, salary and work site location.

G. The public employer shall provide the information described in Subsection F of this section to the exclusive representative within ten days from the date of hire for newly hired employees in an appropriate bargaining unit, and every one hundred twenty days for employees in the bargaining unit who are not newly hired employees. The information shall be kept confidential by the labor organization and its employees or officers. Apart from the disclosure required by this subsection, and notwithstanding any provision contained in the Inspection of Public Records Act, the public employer shall not disclose the information described in Subsection F of this section, or public...
employees' dates of birth or social security numbers to a third party.

H. An exclusive representative shall have the right to use the electronic mail systems or other similar communication systems of a public employer to communicate with the employees in the bargaining unit regarding:

(1) collective bargaining, including the administration of collective bargaining agreements;

(2) the investigation of grievances or other disputes relating to employment relations; and

(3) matters involving the governance or business of the labor organization.

I. Nothing in this section prevents a public employer from providing an exclusive representative access to employees within the bargaining unit beyond the reasonable access required under this section, or limits any existing right of a labor organization to communicate with public employees."

SECTION 9. Section 10-7E-16 NMSA 1978 (being Laws 2003, Chapter 4, Section 16 and Laws 2003, Chapter 5, Section 16) is amended to read:

"10-7E-16. DECERTIFICATION OF EXCLUSIVE REPRESENTATIVE.--

A. A member of a labor organization or the labor organization itself may initiate decertification of a labor
organization as the exclusive representative if thirty percent of the public employees in the appropriate bargaining unit make a written request to the board or local board for a decertification election. Decertification elections shall be held in a manner prescribed by rule of the board. An election shall only be valid if forty percent of the eligible employees in the bargaining unit vote in the election.

B. When there is a collective bargaining agreement in effect, a request for a decertification election shall be made to the board or local board no earlier than ninety days and no later than sixty days before the expiration of the collective bargaining agreement; provided, however, a request for an election may be filed at any time after the expiration of the third year of a collective bargaining agreement with a term of more than three years.

C. When, within the time period prescribed in Subsection B of this section, a competing labor organization files a petition containing signatures of at least thirty percent of the public employees in the appropriate bargaining unit, a representation election rather than a decertification election shall be conducted.

D. When an exclusive representative has been certified but no collective bargaining agreement is in effect, the board or local board shall not accept a request for a decertification election or an election sought by a
competing labor organization earlier than twelve months
subsequent to a labor organization's certification as the
exclusive representative."

SECTION 10. Section 10-7E-17 NMSA 1978 (being Laws
2003, Chapter 4, Section 17 and Laws 2003, Chapter 5, Section
17) is amended to read:

"10-7E-17. SCOPE OF BARGAINING.--

A. Except for retirement programs provided
pursuant to the Public Employees Retirement Act or the
Educational Retirement Act, public employers and exclusive
representatives:

(1) shall bargain in good faith on wages,
hours and all other terms and conditions of employment and
other issues agreed to by the parties. However, neither the
public employer nor the exclusive representative shall be
required to agree to a proposal or to make a concession; and

(2) shall enter into written collective
bargaining agreements covering employment relations.
Entering into a collective bargaining agreement shall not
obviate the duty to bargain in good faith during the term of
the collective bargaining agreement regarding changes to
wages, hours and all other terms and conditions of
employment, unless it can be demonstrated that the parties
clearly and unmistakably waived the right to bargain
regarding those subjects. However, no party may be required,
by this provision, to renegotiate the existing terms of collective bargaining agreements already in place.

B. In regard to the Public Employees Retirement Act and the Educational Retirement Act, a public employer in a written collective bargaining agreement may agree to assume any portion of a public employee's contribution obligation to retirement programs provided pursuant to the Public Employees Retirement Act or the Educational Retirement Act. Such agreements are subject to the limitations set forth in this section.

C. The obligation to bargain collectively imposed by the Public Employee Bargaining Act shall not be construed as authorizing a public employer and an exclusive representative to enter into an agreement that is in conflict with the provisions of any other statute of this state; provided, however, that a collective bargaining agreement that provides greater rights, remedies and procedures to public employees than contained in a state statute shall not be considered to be in conflict with that state statute. In the event of an actual conflict between the provisions of any other statute of this state and an agreement entered into by the public employer and the exclusive representative in collective bargaining, the statutes of this state shall prevail.

D. Payroll deduction of the exclusive
representative's membership dues shall be a mandatory subject of bargaining if either party chooses to negotiate the issue. The amount of dues shall be certified in writing by an official of the labor organization and shall not include special assessments, penalties or fines of any type. The public employer shall honor payroll deductions until the authorization is revoked in writing by the public employee in accordance with the negotiated agreement and this subsection and for so long as the labor organization is certified as the exclusive representative. Public employees who have authorized the payroll deduction of dues to a labor organization may revoke that authorization by providing written notice to their labor organization during a window period not to exceed ten days per year for each employee. The public employer and the labor organization shall negotiate when the commencement of that period will begin annually for each employee. If no agreement is reached, the period shall be during the ten days following the anniversary date of each employee's employment. Within ten days of receipt of notice from a public employee of revocation of authorization for the payroll deduction of dues, the labor organization shall provide notice to the public employer of a public employee's revocation of that authorization. A public employee's notice of revocation for the payroll deduction of dues shall be effective on the thirtieth day after the notice
provided to the public employer by the labor organization. No authorized payroll deduction of dues held by a public employer or a labor organization on July 1, 2020 shall be rendered invalid by this provision and shall remain valid until replaced or revoked by the public employee. During the time that a board certification is in effect for a particular appropriate bargaining unit, the public employer shall not deduct dues for any other labor organization.

E. Public employers and a labor organization, or their employees or agents, are not liable for, and have a complete defense to, any claims or actions under the law of this state for requiring, deducting, receiving or retaining fair share dues or fees from public employees, and current or former public employees do not have standing to pursue these claims or actions if the fair share dues or fees were permitted at the time under the laws of this state then in force and paid, through payroll deduction or otherwise, on or before June 27, 2018. This subsection:

(1) applies to all claims and actions pending on July 1, 2020 and to claims and actions filed on or after July 1, 2020; and

(2) shall not be interpreted to infer that any relief made unavailable by this section would otherwise be available.

F. The scope of bargaining for the exclusive
representative and the state shall include enhancements of
employee rights and benefits existing pursuant to the
Personnel Act.

G. The scope of bargaining for representatives of
public schools as well as educational employees in state
agencies shall include, as a mandatory subject of bargaining,
the impact of professional and instructional decisions made
by the employer.

H. An impasse resolution or an agreement provision
by the state and an exclusive representative that requires
the expenditure of funds shall be contingent upon the
specific appropriation of funds by the legislature and the
availability of funds. An impasse resolution or an agreement
provision by a public employer other than the state or the
public schools and an exclusive representative that requires
the expenditure of funds shall be contingent upon the
specific appropriation of funds by the appropriate governing
body and the availability of funds. An agreement provision
by a local school board and an exclusive representative that
requires the expenditure of funds shall be contingent upon
ratification by the appropriate governing body. An
arbitration decision shall not require the reappropriation of
funds.

I. An agreement shall include a grievance
procedure to be used for the settlement of disputes
pertaining to employment terms and conditions and related personnel matters. The grievance procedure shall provide for a final and binding determination. The final determination shall constitute an arbitration award within the meaning of the Uniform Arbitration Act; such award shall be subject to judicial review pursuant to the standard set forth in the Uniform Arbitration Act. The costs of an arbitration proceeding conducted pursuant to this subsection shall be shared equally by the parties.

J. The following meetings shall be closed:

(1) meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the public employer and the exclusive representative of the public employees of the public employer;

(2) collective bargaining sessions; and

(3) consultations and impasse resolution procedures at which the public employer and the exclusive representative of the appropriate bargaining unit are present."

SECTION 11. Section 10-7E-18 NMSA 1978 (being Laws 2003, Chapter 4, Section 18 and Laws 2003, Chapter 5, Section 18) is amended to read:

"10-7E-18. IMPASSE RESOLUTION.--

A. The following negotiations and impasse
procedures shall be followed by the state and exclusive representatives for state employees:

(1) a request to the state for the commencement of initial negotiations shall be filed in writing by the exclusive representative no later than June 1 of the year in which negotiations are to take place. Negotiations shall begin no later than July 1 of that year;

(2) in subsequent years, negotiations agreed to by the parties shall begin no later than August 1 following the submission of written notice to the state by the exclusive representative no later than July 1 of the year in which negotiations are to take place;

(3) if an impasse occurs during negotiations between the parties, either party may request mediation services from the board. A mediator from the federal mediation and conciliation service shall be assigned by the board to assist in negotiations unless the parties agree to another mediator;

(4) the mediator shall provide services to the parties until the parties reach agreement or the mediator believes that mediation services are no longer helpful or until thirty days after the mediator was requested, whichever occurs first; and

(5) if the impasse continues after the time described in Paragraph (4) of this subsection, either party
may request a list of seven arbitrators from the federal mediation and conciliation service. One arbitrator shall be chosen by the parties by alternately striking names from such list. Who strikes first shall be determined by coin toss. The arbitrator shall render a final, binding, written decision resolving unresolved issues pursuant to Subsection H of Section 10-7E-17 NMSA 1978 and the Uniform Arbitration Act no later than thirty days after the arbitrator has been notified of selection by the parties. The arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offer. The costs of an arbitrator and the arbitrator's related costs conducted pursuant to this subsection shall be shared equally by the parties. Each party shall be responsible for bearing the cost of presenting its case. The decision shall be subject to judicial review pursuant to the standard set forth in the Uniform Arbitration Act.

B. The following impasse procedures shall be followed by all public employers and exclusive representatives, except the state and the state's exclusive representatives:

(l) if an impasse occurs, either party may request from the board or local board that a mediator be assigned to the negotiations unless the parties can agree on a mediator. A mediator with the federal mediation and
conciliation service shall be assigned by the board or local board to assist negotiations unless the parties agree to another mediator; and

(2) if the impasse continues after a thirty-day mediation period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. One arbitrator shall be chosen by the parties by alternately striking names from such list. Who strikes first shall be determined by coin toss. The arbitrator shall render a final, binding, written decision resolving unresolved issues pursuant to Subsection H of Section 10-7E-17 NMSA 1978 and the Uniform Arbitration Act no later than thirty days after the arbitrator has been notified of selection by the parties. The arbitrator's decision shall be limited to a selection of one of the two parties' complete, last, best offer. The costs of an arbitrator and the arbitrator's related costs conducted pursuant to this subsection shall be shared equally by the parties. Each party shall be responsible for bearing the cost of presenting its case. The decision shall be subject to judicial review pursuant to the standard set forth in the Uniform Arbitration Act.

C. A public employer other than the state may enter into a written agreement with the exclusive representative setting forth an alternative impasse
resolution procedure.

D. In the event that an impasse continues after the expiration of a contract, the existing contract will continue in full force and effect until it is replaced by a subsequent written agreement. However, this shall not require the public employer to increase any employees' levels, steps or grades of compensation contained in the existing contract."

SECTION 12. Section 10-7E-19 NMSA 1978 (being Laws 2003, Chapter 4, Section 19 and Laws 2003, Chapter 5, Section 19) is amended to read:

"10-7E-19. PUBLIC EMPLOYERS--PROHIBITED PRACTICES.--A public employer or the public employer's representative shall not:

A. discriminate against a public employee with regard to terms and conditions of employment because of the employee's membership in a labor organization;

B. interfere with, restrain or coerce a public employee in the exercise of a right guaranteed pursuant to the Public Employee Bargaining Act or use public funds to influence the decision of its employees or the employees of its subcontractors regarding whether to support or oppose a labor organization that represents or seeks to represent those employees, or whether to become a member of any labor organization; provided, however, that this subsection does
not apply to activities performed or expenses incurred:

(1) addressing a grievance or negotiating or administering a collective bargaining agreement;

(2) allowing a labor organization or its representatives access to the public employer's facilities or properties;

(3) performing an activity required by federal or state law or by a collective bargaining agreement;

(4) negotiating, entering into or carrying out an agreement with a labor organization;

(5) paying wages to a represented employee while the employee is performing duties if the payment is permitted under a collective bargaining agreement; or

(6) representing the public employer in a proceeding before the board or a local board or in a judicial review of that proceeding;

C. dominate or interfere in the formation, existence or administration of a labor organization;

D. discriminate in regard to hiring, tenure or a term or condition of employment in order to encourage or discourage membership in a labor organization;

E. discharge or otherwise discriminate against a public employee because the employee has signed or filed an affidavit, petition, grievance or complaint or given information or testimony pursuant to the provisions of the
Public Employee Bargaining Act or because a public employee is forming, joining or choosing to be represented by a labor organization;

F. refuse to bargain collectively in good faith with the exclusive representative;

G. refuse or fail to comply with a provision of the Public Employee Bargaining Act or board rule; or

H. refuse or fail to comply with a collective bargaining agreement."

SECTION 13. REPEAL.--Sections 10-7E-11 and 10-7E-26 NMSA 1978 (being Laws 2003, Chapter 4, Section 11 and Laws 2003, Chapter 5, Section 11; and Laws 2003, Chapter 4, Section 26 and Laws 2003, Chapter 5, Section 26) are repealed.

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.