AN ACT

RELATING TO CIVIL RIGHTS; CREATING THE NEW MEXICO CIVIL RIGHTS COMMISSION; PROVIDING RECOMMENDATIONS ON A PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF STATE CONSTITUTIONAL RIGHTS; PROVIDING RECOMMENDATIONS FOR THE USE OF QUALIFIED IMMUNITY; REQUIRING A REPORT BY NOVEMBER 15, 2020; DECLARING AN EMERGENCY.

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

SECTION 1. TEMPORARY PROVISION--NEW MEXICO CIVIL RIGHTS COMMISSION--APPOINTMENT--PROVIDING RECOMMENDATIONS--REPORTING REQUIRED.--

   A. The "New Mexico civil rights commission" is created and shall function from the date of its appointment until March 31, 2021.

   B. The New Mexico civil rights commission consists of nine members, no more than five of which shall be from the same political party, appointed as follows:

      (1) the governor shall appoint three members;

      (2) the New Mexico legislative council shall appoint six members; and

      (3) the appointing authorities shall make every effort to ensure economic, geographic, gender, cultural and racial diversity among the appointed members as well as
at least one member experienced in law enforcement.

C. The commission shall elect a chair and may
elect such officers as it deems necessary to carry out its
duties.

D. Two absences from meetings of the commission
constitutes grounds for removal of a member of the
commission. Upon the request of the chair of the commission,
the appointing authority shall replace the member who has
failed to attend two meetings of the commission.

E. A majority of the members appointed constitutes
a quorum for the transaction of business. The support of a
majority of the members appointed is required for adoption of
any action by the commission.

F. The members of the commission shall review
policies and develop policy proposals for laws for the
creation of a civil right of action for the deprivation, by a
public body or a person acting on behalf of or under the
authority of a public body, of any right, privilege or
immunity secured by the constitution of New Mexico. The
commission shall consider whether such right of action shall
provide for monetary damages, including punitive damages, and
other equitable relief, including injunctive relief. The
commission shall consider whether attorney fees shall be
mandated for a prevailing plaintiff, the statute of
limitations for the right of action and indemnification of
employees of a public body in cases involving the right of action.

G. The commission shall review the use of qualified immunity as a defense to liability by an employee of a public body for a claim that would be brought either under 42 U.S.C. Section 1983 or pursuant to the right of action considered by the commission in Subsection F of this section.

H. The commission shall review and assess the need for and costs of additional insurance policies for public employees and public bodies, or for persons acting on behalf of or under the authority of public bodies, if the policies or laws proposed pursuant to Subsections F and G of this section are adopted.

I. The commission shall submit a report of its findings, including specific recommendations and proposed legislation, to the governor, the New Mexico legislative council and the appropriate legislative interim committee dealing with courts, corrections and justice by November 15, 2020.

J. The commission may hire or contract for appropriate staff. Staff shall assist the commission as directed by the chair, including conducting interviews with parties that wish to express their views to the commission and synthesizing this information for the commission. The
commission may request assistance from the legislative
council service and the risk management division of the
general services department.

K. Members of the commission are entitled to
compensation pursuant to the provisions of the Per Diem and
Mileage Act and shall receive no other perquisite,
compensation or allowance.

L. As used in this section, "public body" means
the executive, legislative and judicial branches of state and
local governments and all advisory boards, commissions,
committees, agencies or entities created by the constitution
of New Mexico or any branch of government that receives
public funding, including political subdivisions, special
taxing districts, school districts and institutions of higher
education.

SECTION 2. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect
immediately.