AN ACT

RELATING TO ETHICS; CLARIFYING ADMINISTRATIVE AND ENFORCEMENT
DUTIES OF THE STATE ETHICS COMMISSION AND SECRETARY OF STATE
WITH RESPECT TO THE CAMPAIGN REPORTING ACT, VOTER ACTION ACT,
FINANCIAL DISCLOSURE ACT AND LOBBYIST REGULATION ACT;
PROVIDING FOR PENALTIES; PROVIDING RULEMAKING AUTHORITY;
REQUIRING STATE ETHICS COMMISSION COMMISSIONERS TO FILE
ANNUAL FINANCIAL DISCLOSURE STATEMENTS PURSUANT TO THE
FINANCIAL DISCLOSURE ACT; REMOVING THE REQUIREMENT THAT
COMPLAINTS FILED WITH THE STATE ETHICS COMMISSION BE
NOTARIZED; CLARIFYING THE VENUE PROVISION FOR ETHICS
COMPLAINT COURT ACTIONS; REQUIRING ACKNOWLEDGMENT OF
RESPONSIBILITIES BY POLITICAL COMMITTEE TREASURERS; PROVIDING
FOR THE RESIGNATION AND REPLACEMENT OF TREASURERS; REPEALING
SECTION 1-19-1 NMSA 1978 (BEING LAWS 1969, CHAPTER 240,
SECTION 405).

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

SECTION 1. Section 1-19-26.1 NMSA 1978 (being Laws
1993, Chapter 46, Section 2, as amended) is amended to read:
"1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--
DISCLOSURES--PENALTIES.--

A. It is unlawful for a political committee to
continue to receive or make any contribution or expenditure
for a political purpose if the committee fails to meet the
requirements of Subsections B and C of this section.

B. A political committee shall appoint and maintain a treasurer, file a statement of organization with the secretary of state and pay a filing fee of fifty dollars ($50.00).

C. A statement of organization required by Subsection B of this section shall be made under oath on a prescribed form showing:

(1) the full name of the committee, which shall fairly and accurately reflect the identity of the committee, including any sponsoring organization, and its address;

(2) a statement of the purpose for which the committee was organized;

(3) the names and addresses of the officers of the committee; and

(4) an identification of any bank account used by the committee to receive or make contributions or make expenditures.

D. Any changes to the information provided in the statement of organization shall be reported to the secretary of state within ten days.

E. If a political committee fails to update the statement of organization within the time prescribed in Subsection D of this section, the political committee is
subject to a fine of five hundred dollars ($500).

F. A state political party shall furnish to the secretary of state a list of each county political party associated with it and the names and contact information of the county party officers as submitted to the state political party. The list shall be updated quarterly if there have been any reported changes.

G. The provisions of this section do not apply to a political committee that is located in another state and is registered with the federal election commission if the political committee reports on federal reporting forms filed with the federal election commission all expenditures for and contributions made to reporting individuals in New Mexico and files with the secretary of state, according to the schedule required for the filing of forms with the federal election commission, a copy of either the full report or the cover sheet and the portions of the federal reporting forms that contain the information on expenditures for and contributions made to reporting individuals in New Mexico."

SECTION 2. Section 1-19-32.1 NMSA 1978 (being Laws 1981, Chapter 331, Section 9, as amended) is amended to read:

"1-19-32.1. REPORTS EXAMINATION--FORWARDING OF REPORTS.--

A. The secretary of state shall conduct a thorough examination of at least ten percent of all reports filed
during a year by reporting individuals, selected at random at
least forty days after the general election and ten days
after the April reports are filed in a non-election year, to
determine compliance with the provisions of the Campaign
Reporting Act. The examination may include an investigation
of any discrepancies, including a cross-reference to reports
filed by any other reporting individual. A reporting
individual shall be notified in writing if a discrepancy is
found in the report filed and shall be permitted to file a
written explanation for the discrepancy and come into
voluntary compliance within ten working days of the date of
the notice.

B. After the date stated in the notice for
submission of a written explanation, the secretary of state
shall prepare an annual report of any unresolved
discrepancies found after examination of the random sample
provided for in Subsection A of this section. A copy of this
report shall be transmitted to the state ethics commission
and the attorney general for enforcement pursuant to the
provisions of Sections 1-19-34.6 and 1-19-36 NMSA 1978. This
report is a public record open to public inspection and
subject to the retention and destruction provisions set forth
in Section 1-19-32 NMSA 1978."

SECTION 3. Section 1-19-34.4 NMSA 1978 (being Laws
1993, Chapter 46, Section 15, as amended) is amended to read:
"1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--
INVESTIGATIONS--REFERRALS FOR ENFORCEMENT.--

A. The secretary of state shall advise and seek to educate all persons required to perform duties under the Campaign Reporting Act of those duties. This includes advising all known reporting individuals at least annually of that act's deadlines for submitting required reports and statements of no activity. The state ethics commission, in consultation with the secretary of state, shall issue advisory opinions, when requested in writing to do so, on matters concerning that act.

B. The secretary of state may conduct examinations of reports filed pursuant to Section 1-19-29 NMSA 1978 and the state ethics commission may initiate investigations to determine whether any provision of the Campaign Reporting Act has been violated.

C. Any person who believes that a provision of the Campaign Reporting Act has been violated may file a written complaint with the state ethics commission pursuant to the terms of the State Ethics Commission Act. If the commission has jurisdiction for the complaint, the state ethics commission shall refer the complaint to the secretary of state. Upon referral, the secretary of state shall attempt to achieve voluntary compliance with the Campaign Reporting Act. Within thirty-five days after receiving the complaint
from the state ethics commission, the secretary of state
shall return the complaint to the state ethics commission and
certify to the state ethics commission whether voluntary
compliance was achieved. If the secretary of state certifies
voluntarily compliance, the state ethics commission shall
dismiss the complaint or that part of the complaint alleging
a violation of the Campaign Reporting Act. If the secretary
of state does not certify voluntarily compliance, the state
ethics commission shall proceed with the complaint pursuant
to the terms of the State Ethics Commission Act.

D. The secretary of state and the state ethics
commission shall at all times seek to ensure voluntary
compliance with the provisions of the Campaign Reporting Act.

E. At any time, the secretary of state may refer a
matter to the state ethics commission for a civil injunctive
or other appropriate order or to the attorney general or a
district attorney for criminal enforcement."

SECTION 4. Section 1-19-34.6 NMSA 1978 (being Laws
1995, Chapter 153, Section 19, as amended) is amended to
read:

"1-19-34.6. CIVIL PENALTIES.--

A. If the secretary of state exhausts efforts in
seeking voluntary compliance and reasonably believes that a
person committed, or is about to commit, a violation of the
Campaign Reporting Act, the secretary of state shall refer
the matter to the state ethics commission for enforcement; provided, however, that if the secretary of state waives the imposition of a fine pursuant to Subsection D of Section 1-19-35 NMSA 1978, the matter shall not be referred.

B. With or without a referral from the secretary of state, the state ethics commission may institute a civil action in district court for any violation of the Campaign Reporting Act or to prevent a violation of that act that involves an unlawful solicitation or the making or acceptance of an unlawful contribution. An action for relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of up to one thousand dollars ($1,000) for each violation not to exceed a total of twenty thousand dollars ($20,000), and forfeiture of any contribution received as a result of an unlawful solicitation or unlawful contribution. Each unlawful solicitation and each unlawful contribution made or accepted shall be deemed a separate violation of the Campaign Reporting Act.

C. With or without a referral from the secretary of state, the state ethics commission may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Campaign Reporting Act other than that specified in Subsection B of this section. Relief may include a permanent or temporary
injunction, a restraining order or any other appropriate
order, including an order for a civil penalty of up to one
thousand dollars ($1,000) for each violation not to exceed a
total of twenty thousand dollars ($20,000)."

SECTION 5. Section 1-19-34.8 NMSA 1978 (being Laws
2019, Chapter 86, Section 19) is amended to read:

"1-19-34.8. STATE ETHICS COMMISSION--JURISDICTION.---

A. 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.

B. 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
provisions of the Campaign Reporting Act and a formalized
agreement."

SECTION 6. Section 1-19-35 NMSA 1978 (being Laws 1979,
Chapter 360, Section 11, as amended) is amended to read:

"1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY--
FAILURE TO FILE.---

A. Except for the report required to be filed and
delivered the Thursday prior to the election and any
supplemental report, as required in Paragraph (5) of
Subsection B of Section 1-19-29 NMSA 1978, if a statement of
no activity or a report of expenditures and contributions is
not filed or is filed after any deadline imposed by the Campaign Reporting Act, the responsible reporting individual or political committee shall be liable for and shall pay to the secretary of state fifty dollars ($50.00) per day for each regular working day after the time required by the Campaign Reporting Act for the filing of statements of no activity or reports of expenditures and contributions until the complete statement or report is filed, up to a maximum fine as provided in Subsection H of this section.

B. If any reporting individual fails to file or files a late report of expenditures and contributions due on the Thursday prior to the election, the reporting individual or political committee shall be liable and pay to the secretary of state five hundred dollars ($500) for the first working day and fifty dollars ($50.00) for each subsequent working day after the time required for the filing of the report until the complete report is filed, up to a maximum fine as provided in Subsection H of this section.

C. If a reporting individual fails to file or files a late supplemental report of expenditures and contributions as required in Paragraph (5) of Subsection B of Section 1-19-29 NMSA 1978, the reporting individual or political committee shall be liable for and pay to the secretary of state a penalty equal to the amount of each contribution received or pledged after the Tuesday before the
election that was not timely filed.

D. If the secretary of state determines that a reporting individual or political committee has failed to file or has filed a report past the deadline, the secretary of state shall by written notice set forth the violation and the fine that may be imposed and inform the reporting individual that the individual has ten working days from the date of the letter to come into voluntary compliance and to provide a written explanation, under penalty of perjury, stating any reason why the violation occurred. If a timely explanation is filed and the secretary of state determines that good cause exists to waive or reduce the imposition of the fine, the secretary of state may by a written notice of final action partially or fully waive the imposition of a fine for any late report or statement of no activity. A written notice of final action shall be sent by certified mail. The secretary of state may file a petition with the court to remit outstanding fines for good cause or refer unpaid fines for enforcement under Subsection A of Section 1-19-34.6 NMSA 1978.

E. All sums collected for the penalty shall be deposited in the state general fund. A report or statement of no activity shall be deemed timely filed only if it is received by the secretary of state by the date and time prescribed by law.
F. Any candidate who fails or refuses to file a report of expenditures and contributions or statement of no activity or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act shall not, in addition to any other penalties provided by law:

   (1) have the candidate's name printed upon the ballot if the violation occurs before and through the final date for the withdrawal of candidates; or

   (2) be issued a certificate of nomination or election, if the violation occurs after the final date for withdrawal of candidates or after the election, until the candidate satisfies all reporting requirements of the Campaign Reporting Act and pays all penalties owed.

G. Any candidate who loses an election and who failed or refused to file a report of expenditures and contributions or a statement of no activity or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act shall not be, in addition to any other penalties provided by law, permitted to file a declaration of candidacy or nominating petition for any future election until the candidate satisfies all reporting requirements of that act and pays all penalties owed.

H. The maximum cumulative penalties for each report for which fines are assessed in accordance with Subsections A and B of this section are as follows:
(1) five thousand dollars ($5,000) for statewide candidate committees and political committees;
(2) two thousand five hundred dollars ($2,500) for legislative, district judge, district attorney and public education commission candidate committees;
(3) one thousand dollars ($1,000) for county candidate committees running in a county designated as class A; and
(4) five hundred dollars ($500) for all other non-class A county candidate committees."

SECTION 7. Section 1-19-36 NMSA 1978 (being Laws 1979, Chapter 360, Section 12, as amended) is amended to read:
"1-19-36. CRIMINAL PENALTIES.--
A. Any person who knowingly and willfully violates any provision of the Campaign Reporting Act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than one year or both.
B. The Campaign Reporting Act may be enforced by the attorney general or the district attorney in the county where the candidate resides, where a political committee has its principal place of business or where the violation occurred."

SECTION 8. Section 1-19A-15.1 NMSA 1978 (being Laws 2019, Chapter 86, Section 20) is amended to read:
"1-19A-15.1. STATE ETHICS COMMISSION--JURISDICTION.--

A. 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 the State Ethics Commission Act.

B. The secretary of state shall forward complaints it receives alleging violations of the Voter Action Act to the state ethics commission in accordance with a formalized agreement."

SECTION 9. Section 1-19A-17 NMSA 1978 (being Laws 2003, Chapter 14, Section 17, as amended) is amended to read:

"1-19A-17. PENALTIES.--

A. In addition to other penalties that may be applicable, a person who violates a provision of the Voter Action Act is subject to a civil penalty of up to ten thousand dollars ($10,000) per violation. In addition to a fine, a certified candidate found in violation of that act may be required to return to the fund all amounts distributed to the candidate from the fund. If the state ethics commission makes a determination that a violation of that act has occurred, the state ethics commission shall impose a fine and, if the violation is willful or knowing, transmit the finding to the attorney general for criminal prosecution pursuant to Subsection B of this section. In determining
whether a certified candidate is in violation of the expenditure limits of that act, the state ethics commission may consider as a mitigating factor any circumstances out of the candidate's control.

B. A person who willfully or knowingly violates the provisions of the Voter Action Act or knowingly makes a false statement in a report required by that act is guilty of a fourth degree felony and, if the person is a certified candidate, shall return to the fund all money distributed to that candidate."

SECTION 10. Section 2-11-8.2 NMSA 1978 (being Laws 1977, Chapter 261, Section 4, as amended) is amended to read:

"2-11-8.2. COMPLIANCE WITH ACT--ENFORCEMENT OF ACT--CIVIL PENALTIES.--

A. The secretary of state shall advise and seek to educate all persons required to perform duties pursuant to the Lobbyist Regulation Act of those duties. This includes advising all registered lobbyists at least annually of the Lobbyist Regulation Act's deadlines for submitting required reports. The state ethics commission, in consultation with the secretary of state, shall issue advisory opinions, when requested to do so in writing, on matters concerning the Lobbyist Regulation Act.

B. The secretary of state may conduct examinations of reports and the state ethics commission may initiate
investigations to determine whether the Lobbyist Regulation Act has been violated. Any person who believes that a provision of the Lobbyist Regulation Act has been violated may file a written complaint with the state ethics commission pursuant to the terms of the State Ethics Commission Act. If the commission has jurisdiction for the complaint, the state ethics commission shall refer the complaint to the secretary of state. Upon referral, the secretary of state shall attempt to achieve voluntary compliance with the Lobbyist Regulation Act. Within twenty days after receiving the complaint from the state ethics commission, the secretary of state shall return the complaint to the state ethics commission and certify to the state ethics commission whether voluntary compliance was achieved. If the secretary of state certifies voluntary compliance, the state ethics commission shall dismiss the complaint or that part of the complaint alleging a violation of the Lobbyist Regulation Act. If the secretary of state does not certify voluntary compliance, the state ethics commission shall proceed with the complaint pursuant to the terms of the State Ethics Commission Act.

C. The secretary of state and the state ethics commission shall at all times seek to ensure voluntary compliance with the provisions of the Lobbyist Regulation Act. Additionally, the state ethics commission shall give a person who violates that act unintentionally or for good
cause ten days' notice to come into compliance before the commission takes any action on a complaint filed with or referred to the commission against that person.

D. Any person who fails to file or files a report after the deadline imposed by the Lobbyist Regulation Act shall be liable for and shall pay to the secretary of state fifty dollars ($50.00) per day for each regular working day after the time required for the filing of the report until the complete report is filed, up to a maximum of five thousand dollars ($5,000).

E. If the secretary of state determines that a reporting entity subject to the reporting provisions of the Lobbyist Regulation Act has failed to file or has filed a report after the deadline, the secretary of state shall by written notice set forth the violation and the fine that may be imposed and inform the reporting individual that the individual has ten working days from the date of the letter to come into voluntary compliance and to provide a written explanation, under penalty of perjury, stating any reason why the violation occurred. If a timely explanation is filed and the secretary of state determines that good cause exists to waive the imposition of a fine, the secretary of state may by a written notice of final action partially or fully waive the imposition of a fine for any late report or statement of no activity. A written notice of final action shall be sent by
certified mail. The secretary of state may file an appropriate court action to remit outstanding fines for good cause or refer unpaid fines for enforcement pursuant to Subsection F of this section.

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

SECTION 11. Section 2-11-8.3 NMSA 1978 (being Laws 2019, Chapter 86, Section 21) is amended to read:

"2-11-8.3. STATE ETHICS COMMISSION--JURISDICTION.--

A. 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.

B. 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 Lobbyist Regulation Act and a formalized agreement."

SECTION 12. Section 10-16A-3 NMSA 1978 (being Laws 1993, Chapter 46, Section 41, as amended) is amended to read:

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

A. A person holding a legislative or statewide office shall file with the secretary of state a financial

HB 244/a
Page 17
disclosure statement during the month of January every year
that the person holds public office.

B. A candidate for legislative or statewide office
who has not already filed a financial disclosure statement
with the secretary of state in the same calendar year shall
file with the proper filing officer, as defined in the
Election Code, a financial disclosure statement at the time
of filing a declaration of candidacy. If the proper filing
officer is not the secretary of state, the proper filing
officer shall forward a copy of the financial disclosure
statement to the secretary of state within three days.

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

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

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

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

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

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

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

(6) all New Mexico professional licenses held;

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

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

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

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

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

H. A person who files to be a candidate for a
legislative or statewide office who fails or refuses to file
a financial disclosure statement required by this section
before the final date for qualification of the person as a
candidate as provided for in the Election Code shall not be
qualified by the proper filing officer as a candidate.

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

SECTION 13. Section 10-16A-6 NMSA 1978 (being Laws
1993, Chapter 46, Section 44, as amended) is amended to read:

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

A. The state ethics commission 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.

C. Any person who files a statement or report after the deadline imposed by the Financial Disclosure Act 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).

D. 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 14. Section 10-16G-2 NMSA 1978 (being Laws 2019, Chapter 86, Section 2) is amended to read:

"10-16G-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 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 15. Section 10-16G-4 NMSA 1978 (being Laws 2019, Chapter 86, Section 4) is amended to read:

"10-16G-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 and, pursuant to the
Financial Disclosure Act, file with the secretary of state a financial disclosure statement within thirty days of appointment and during the month of January every year thereafter that the commissioner serves on the commission.

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 16. Section 10-16G-9 NMSA 1978 (being Laws 2019, Chapter 86, Section 9) is amended to read:

"10-16G-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 10-16G-10 NMSA 1978.

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 defendant resides."

SECTION 17. Section 10-16G-10 NMSA 1978 (being Laws 2019, Chapter 86, Section 10) is amended to read:

"10-16G-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 under oath by the complainant.

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

"POLITICAL COMMITTEES--ACKNOWLEDGMENT OF RESPONSIBILITIES--PENALTY.--

A. Beginning on July 1, 2021, for all new political committees registering with the secretary of state, the treasurer for the political committee shall submit an electronically signed statement acknowledging the political committee's responsibilities on a form prescribed by the secretary of state within ten days of registering the political committee. The signed acknowledgment statement serves as notification of the responsibilities of the political committee to comply with the financial reporting prescribed in the Campaign Reporting Act and the potential personal liability of the treasurer for penalties assessed against the political committee.

B. The secretary of state shall notify the political committee of any individual who has failed to submit the acknowledgment statement. Failure to return the acknowledgment statement is a violation of this section for which a fine of one hundred dollars ($100) may be assessed.
against the political committee. This section also applies
to individuals named in an updated or amended registration
who have not previously submitted an acknowledgment statement
for the political committee.

C. For all political committees already registered
with the secretary of state prior to July 1, 2021, the
secretary of state shall notify the principal officer and
treasurer of record requiring the treasurer to submit an
acknowledgment form required in Subsection A of this section.
If the political committee does not respond to the request
made by the secretary of state or disputes current
responsibility for the political committee, the political
committee shall not raise or spend any funds until the
registration is amended and the acknowledgment form has been
signed.

D. If there are already fines accrued against a
political committee previously registered with the secretary
of state, the treasurer of record shall sign the
acknowledgment statement accepting personal liability from
that date forward. Outstanding fines are still due unless
the secretary of state is compelled to file a petition in
court to have the fines dissolved."

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

"POLITICAL COMMITTEES--NOTICE OF RESIGNATION OR REMOVAL
OF TREASURER.--

    A. An individual who resigns as the treasurer of a political committee shall submit a written resignation statement to the secretary of state. An individual's resignation is not effective until the secretary of state receives the written resignation statement from the individual and a replacement treasurer is appointed for the political committee. If an individual is involuntarily removed from the position of treasurer, the political committee shall notify the secretary of state by amending the electronic registration maintained by the secretary of state. An individual who resigns as the treasurer of a political committee remains personally liable for any penalties or fines accrued during the time that the individual served in the position.

    B. The secretary of state shall prescribe the form and process for notifying the secretary of state of a resignation or replacement of a treasurer and shall maintain all records electronically to the extent practicable."

SECTION 20. A new section of the Lobbyist Regulation Act is enacted to read:

"RULEMAKING AUTHORITY.--The secretary of state may promulgate rules to implement the provisions of the Lobbyist Regulation Act. In promulgating the rules, the secretary of state shall comply with the provisions of the State Rules
SECTION 21. A new section of the Financial Disclosure Act is enacted to read:

"RULEMAKING AUTHORITY.--The secretary of state may promulgate rules to implement the provisions of the Financial Disclosure Act. In promulgating the rules, the secretary of state shall comply with the provisions of the State Rules Act."

SECTION 22. REPEAL.--Section 1-19-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 405) is repealed.

SECTION 23. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.