

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 668

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

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

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 16 of this act may be cited as the "State Ethics

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1 Commission Act".

2 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
3 State Ethics Commission Act:

4 A. "commission" means the state ethics commission;

5 B. "commissioner" means a member of the commission;

6 C. "complainant" means a person who files a  
7 verified complaint with the commission;

8 D. "complaint" means a complaint that has been  
9 signed by the complainant and the complainant verifies before a  
10 notary public that the information in the complaint, and any  
11 attachments provided with the complaint, are true and accurate;

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

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

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

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

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

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1           J. "public agency" means any department,  
 2           commission, council, board, committee, agency or institution of  
 3           the executive or legislative branch of government of the state  
 4           or any instrumentality of the state, including the New Mexico  
 5           mortgage finance authority, the New Mexico finance authority,  
 6           the New Mexico exposition center authority, the New Mexico  
 7           hospital equipment loan council and the New Mexico renewable  
 8           energy transmission authority; "public agency" also means a  
 9           school district and a charter school;

10           K. "public employee" means an employee of a public  
 11           agency; provided that, with respect to a school district or a  
 12           charter school, "public employee" only includes an employee who  
 13           works in an administrative capacity;

14           L. "public official" means a person elected to an  
 15           office of the executive or legislative branch of the state, a  
 16           person appointed to a public agency, a local school board  
 17           member, a local superintendent of a school district or a member  
 18           of the governing authority of a charter school; and

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

21           SECTION 3. [NEW MATERIAL] STATE ETHICS COMMISSION  
 22           CREATED--MEMBERSHIP--TERMS--REMOVAL.--

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

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

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

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

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

9 (5) two commissioners appointed by the four  
10 legislatively appointed commissioners; and

11 (6) one commissioner appointed by the  
12 governor, who shall be a retired judge and who shall chair the  
13 commission.

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

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

21 D. Commissioners shall be appointed for staggered  
22 terms of four years beginning July 1, 2019. The initial  
23 commissioners shall draw lots to determine which two  
24 commissioners serve an initial term of two years, which two  
25 commissioners serve an initial term of three years and which

1 three commissioners serve an initial term of four years;  
2 thereafter, all commissioners shall serve four-year terms.  
3 Members shall serve until their successors are appointed and  
4 qualified.

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

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

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

24 H. Four commissioners consisting of two members of  
25 the largest political party in the state and two members of the

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1 second largest political party in the state constitute a quorum  
2 for the transaction of business. No action shall be taken by  
3 the commission unless at least four members, including at least  
4 two members of the largest political party in the state and two  
5 members of the second largest political party in the state,  
6 concur.

7 I. A commissioner may be removed only for  
8 incompetence, neglect of duty or malfeasance in office. A  
9 proceeding for the removal of a commissioner may be commenced  
10 by the commission or by the attorney general upon the request  
11 of the commission. A commissioner shall be given notice of  
12 hearing and an opportunity to be heard before the commissioner  
13 is removed. The supreme court has original jurisdiction over  
14 proceedings to remove commissioners, and its decision shall be  
15 final. A commissioner is also liable to impeachment pursuant  
16 to Article 4, Section 36 of the constitution of New Mexico.

17 SECTION 4. [NEW MATERIAL] COMMISSIONERS--QUALIFICATIONS--  
18 LIMITATIONS.--

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

- 21 (1) be a qualified elector of New Mexico;  
22 (2) not have changed party registration in the  
23 two years next preceding the member's appointment in such a  
24 manner that the member's prior party registration would make  
25 the member ineligible to serve on the commission;

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

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

- 8 (a) a public official;  
9 (b) a public employee;  
10 (c) a candidate;  
11 (d) a lobbyist;  
12 (e) a government contractor; or  
13 (f) an office holder in a political  
14 party at the state or federal level.

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

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

- 25 (1) represent a respondent, unless appearing

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1 on the commissioner's own behalf; or

2 (2) accept employment or otherwise provide  
3 services to a respondent unless the commissioner accepted  
4 employment or provided services prior to the filing of a  
5 complaint against the respondent.

6 D. During a commissioner's tenure, a commissioner  
7 shall not hold another public office or be:

- 8 (1) a public employee;
- 9 (2) a candidate;
- 10 (3) a lobbyist;
- 11 (4) a government contractor; or
- 12 (5) an office holder in a political party at  
13 the state or federal level.

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

18 SECTION 5. [NEW MATERIAL] COMMISSION--DUTIES AND  
19 POWERS.--

- 20 A. The commission shall:
- 21 (1) employ an executive director, who shall be  
22 an attorney;
  - 23 (2) develop, adopt and promulgate the rules  
24 necessary for it to implement and administer the provisions of  
25 the State Ethics Commission Act; and

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1 (3) establish qualifications for hearing  
2 officers and rules for hearing procedures and appeals.

3 B. Beginning January 1, 2020, the commission shall:

4 (1) receive and investigate complaints  
5 alleging ethics violations against public officials, public  
6 employees, candidates, persons subject to the Campaign  
7 Reporting Act, government contractors, lobbyists and lobbyists'  
8 employers;

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

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

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

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

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

23 (1) initiate complaints alleging ethics  
24 violations against a public official, public employee,  
25 candidate, person subject to the Campaign Reporting Act,

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1 government contractor, lobbyist or lobbyist's employer;

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

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

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

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

17 SECTION 6. [NEW MATERIAL] EXECUTIVE DIRECTOR--  
18 APPOINTMENT--DUTIES AND POWERS.--

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

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1                   B. The director shall:

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

4                   (2) perform investigations on behalf of the  
5 commission;

6                   (3) bring complaints and investigation results  
7 before the commission for consideration;

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

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

13                   (6) prepare an annual budget for the  
14 commission and submit it to the commission for approval;

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

18                   (8) perform other duties as assigned by the  
19 commission; and

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

23                   C. The director may:

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

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1                   (2) administer oaths and take depositions  
2 subject to the Rules of Civil Procedure for the District  
3 Courts.

4                   D. For a period of one calendar year immediately  
5 following termination of the director's employment with the  
6 commission, the director shall not:

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

9                   (2) accept employment or otherwise provide  
10 services to a respondent, unless the director accepted  
11 employment or provided services prior to the filing of a  
12 complaint against the respondent.

13                   SECTION 7. [NEW MATERIAL] RECUSAL AND DISQUALIFICATION OF  
14 A COMMISSIONER.--

15                   A. A commissioner may recuse from a particular  
16 matter.

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

22                   (1) when the commissioner has a personal bias  
23 or prejudice concerning a party to the proceeding or has  
24 prejudged a disputed evidentiary fact involved in a proceeding  
25 prior to a hearing. For the purposes of this paragraph,

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1 "personal bias or prejudice" means a predisposition toward a  
2 person based on a previous or ongoing relationship that renders  
3 the commissioner unable to exercise the commissioner's  
4 functions impartially;

5 (2) when the commissioner has a pecuniary  
6 interest in the outcome of the matter; or

7 (3) when in previous employment the  
8 commissioner served as an attorney, adviser, consultant or  
9 witness in the matter in controversy.

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

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

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

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

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

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

17 SECTION 8. [NEW MATERIAL] ADVISORY OPINIONS.--

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

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

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

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

5 (4) be published after omitting the  
6 requester's name and identifying information.

7 B. A request for an advisory opinion shall be  
8 confidential and not subject to the provisions of the  
9 Inspection of Public Records Act.

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

14 SECTION 9. [NEW MATERIAL] COMMISSION JURISDICTION--  
15 COMPLIANCE PROVISIONS.--

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

- 21 (1) the Campaign Reporting Act;
- 22 (2) the Financial Disclosure Act;
- 23 (3) the Gift Act;
- 24 (4) the Lobbyist Regulation Act;
- 25 (5) the Voter Action Act;

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- 1 (6) the Governmental Conduct Act;
- 2 (7) the Procurement Code;
- 3 (8) the State Ethics Commission Act;
- 4 (9) Article 9, Section 14 of the constitution
- 5 of New Mexico;
- 6 (10) the Open Meetings Act;
- 7 (11) the Inspection of Public Records Act; and
- 8 (12) the School District Campaign Reporting
- 9 Act.

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

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

17 D. If the commission decides not to act on a  
18 complaint, whether the complaint was filed with the commission  
19 or forwarded from another public agency, or decides only to act  
20 on part of a complaint, the commission shall promptly forward  
21 the complaint, or any part of a complaint on which it does not  
22 wish to act, to the public agency that has appropriate  
23 jurisdiction within ten days of the decision. The complainant  
24 and respondent shall be notified in writing when the  
25 complainant's request has been forwarded to another agency

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1 unless otherwise provided pursuant to Subsection H of Section  
2 10 of the State Ethics Commission Act.

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

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

18 SECTION 10. [NEW MATERIAL] COMPLAINTS--INVESTIGATIONS--  
19 SUBPOENAS.--

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

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1 violation.

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

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

15 D. The director shall determine if the complaint is  
16 subject to referral to another state agency pursuant to an  
17 agreement or outside the jurisdiction of the commission, and if  
18 so, promptly refer the complaint to the appropriate agency. If  
19 the director determines that the complaint is within the  
20 commission's jurisdiction, the director shall initiate an  
21 investigation.

22 E. The director shall conduct an investigation to  
23 determine whether the complaint is frivolous or  
24 unsubstantiated. If the director determines that the complaint  
25 is frivolous or unsubstantiated, the complaint shall be

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1 dismissed, and the complainant and respondent shall be notified  
2 in writing of the decision and reasons for the dismissal. The  
3 commission shall not make public a complaint that has been  
4 dismissed pursuant to this subsection or the reasons for the  
5 dismissal.

6 F. If the director and the respondent reach a  
7 settlement on the matters of the complaint, the settlement  
8 shall be submitted to the commission for its approval, and if  
9 the matter has been resolved to the satisfaction of the  
10 commission, the complaint and terms of the settlement shall be  
11 subject to public disclosure.

12 G. If the director determines that there is  
13 probable cause, the director shall promptly notify the hearing  
14 officer, the respondent and the complainant that the complaint  
15 is being investigated and of the specific allegations in the  
16 complaint that are being investigated.

17 H. Notwithstanding the provisions of Subsections C  
18 and G of this section, the director may delay notifying a  
19 respondent if it is deemed necessary to protect the integrity  
20 of a criminal investigation. A decision whether to delay  
21 notifying a respondent shall be taken by a majority vote of the  
22 commission and shall be documented in writing with reasonable  
23 specificity.

24 I. As part of an investigation, the director may  
25 administer oaths, interview witnesses and examine books,

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1 records, documents and other evidence reasonably related to the  
2 complaint. All testimony in an investigation shall be under  
3 oath, and the respondent has the right to be represented by  
4 legal counsel. If the director determines that a subpoena is  
5 necessary to obtain the testimony of a person or the production  
6 of books, records, documents or other evidence, the director  
7 shall request that the commission petition a district court to  
8 issue a subpoena under seal.

9 J. The commission may petition the court for a  
10 subpoena for the attendance and examination of witnesses or for  
11 the production of books, records, documents or other evidence  
12 reasonably related to an investigation. If a person neglects  
13 or refuses to comply with a subpoena, the commission may apply  
14 to a district court for an order enforcing the subpoena and  
15 compelling compliance. A challenge to a subpoena shall be  
16 heard by the district court in a confidential proceeding. No  
17 later than July 1 of each even-numbered year, the chief justice  
18 of the supreme court shall appoint an active or pro tempore  
19 district judge to consider the issuance and enforcement of  
20 subpoenas provided for in this section. The appointment shall  
21 end on June 30 of the next even-numbered year after  
22 appointment.

23 K. A state public official or state public employee  
24 who is a respondent who is subject to a complaint alleging a  
25 violation made in the performance of the respondent's duties

1 shall be entitled to representation by the risk management  
2 division of the general services department.

3 SECTION 11. [NEW MATERIAL] STATUS OF INVESTIGATION--  
4 REPORTS TO COMMISSION.--

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

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

24 SECTION 12. [NEW MATERIAL] INVESTIGATION REPORT--  
25 COMMISSION HEARINGS--DECISIONS AND REASONS GIVEN--DISCLOSURE OF

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1 AN ETHICS VIOLATION.--

2 A. Upon receipt of the director's recommendation,  
3 the hearing officer shall:

4 (1) dismiss a complaint and notify the  
5 complainant and the respondent of the dismissal; or

6 (2) set a hearing, as soon as practicable.

7 B. At any time before or during a hearing provided  
8 for in Subsection A of this section, the hearing officer may,  
9 at a public meeting, approve a disposition of a complaint  
10 agreed to by the director and the respondent.

11 C. The hearing provided for in Subsection A of this  
12 section shall be pursuant to the rules of evidence that govern  
13 proceedings in the state's courts and procedures established by  
14 the commission. An audio recording shall be made of the  
15 hearing. The respondent may be represented by counsel. The  
16 parties may present evidence and testimony, compel the presence  
17 of witnesses and examine and cross-examine witnesses.

18 D. The hearing officer shall issue a written  
19 decision that shall include the reasons for the decision. If  
20 the hearing officer finds by a preponderance of the evidence  
21 that the respondent's conduct constituted a violation, the  
22 decision may include recommendations for disciplinary action  
23 against the respondent, and the hearing officer may impose any  
24 fines provided for by law. A finding of fraudulent or willful  
25 misconduct shall require clear and convincing evidence.

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1           E. The complainant or respondent may appeal a  
2 decision of the hearing officer within thirty days of the  
3 decision to the full commission, which shall hear the matter  
4 within sixty days of notice of the appeal. The commission  
5 shall uphold a decision if there is substantial evidence to  
6 support the decision in the record.

7           F. If it is found that the respondent's conduct  
8 constituted a violation, the commission shall issue a written  
9 report and provide the decision and report to the respondent  
10 and the:

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

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

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

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

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

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

24                   (7) public education department if the  
25 respondent is a member of a local school board or of the

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1 governing authority of a state-chartered charter school; or

2 (8) local school board if the respondent is a  
3 member of the governing authority of a locally chartered  
4 charter school.

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

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

10 (2) the disposition of the complaints; and

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

13 SECTION 13. [NEW MATERIAL] CONFIDENTIALITY OF RECORDS--  
14 PENALTY.--

15 A. A decision that a respondent's conduct  
16 constituted a violation, and the terms of a settlement approved  
17 by the commission, are public records. Pleadings, motions,  
18 briefs and other documents or information related to the  
19 decision are public records, except for information that is  
20 confidential or protected pursuant to attorney-client  
21 privilege, provider-patient privilege or state or federal law.

22 B. If a complaint is determined to be frivolous,  
23 unsubstantiated or outside the jurisdiction of the commission,  
24 the complaint shall not be made public.

25 C. Except as otherwise provided in the acts listed

1 in Section 9 of the State Ethics Commission Act, all  
2 complaints, reports, files, records and communications  
3 collected or generated by the commission, hearing officer,  
4 general counsel or director that pertain to alleged violations  
5 shall not be disclosed by the commission or any commissioner,  
6 agent or employee of the commission, unless:

7 (1) disclosure is necessary to pursue an  
8 investigation by the commission;

9 (2) disclosure is required pursuant to the  
10 provisions of the State Ethics Commission Act; or

11 (3) they are offered into evidence by the  
12 commission, respondent or another party at a judicial,  
13 legislative or administrative proceeding, including a hearing  
14 before a hearing officer of the commission in which there is a  
15 finding of a violation.

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

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

23 SECTION 14. [NEW MATERIAL] CRIMINAL VIOLATIONS--  
24 REFERRAL.--If the commission finds at any time that a  
25 respondent's conduct amounts to a criminal violation, the

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1 director shall consult with the attorney general or an  
2 appropriate district attorney, and the commission may refer the  
3 matter to the attorney general or an appropriate district  
4 attorney. The commission may provide the attorney general or  
5 district attorney with all evidence collected during the  
6 commission's investigation. Nothing in this section prevents  
7 the commission from taking any action authorized by the State  
8 Ethics Commission Act or deciding to suspend an investigation  
9 pending resolution of any criminal charges.

10 SECTION 15. [NEW MATERIAL] TIME LIMITATIONS ON  
11 JURISDICTION.--

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

- 15 (1) on which the alleged conduct occurred; or  
16 (2) the alleged conduct could reasonably have  
17 been discovered.

18 B. The commission shall not adjudicate a complaint  
19 filed against a candidate, except pursuant to the Campaign  
20 Reporting Act or Voter Action Act, less than sixty days before  
21 a primary or general election. During that time period, the  
22 commission may dismiss complaints that are frivolous or  
23 unsubstantiated or refer complaints that are outside the  
24 jurisdiction of the commission.

25 C. A complainant shall be notified in writing of

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

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

10 SECTION 16. [NEW MATERIAL] PROHIBITED ACTIONS.--

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

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

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

19 B. A complainant and a respondent undergoing  
20 investigation or a hearing process shall not communicate ex  
21 parte with any hearing officer, commissioner or other person  
22 involved in a determination of the complaint.

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

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1 false claim.

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

4 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

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

9 (1) a statement of [~~exception~~] no activity;

10 (2) a report of expenditures and  
11 contributions;

12 (3) an advisory opinion issued by the  
13 [~~secretary of~~] state ethics commission; except for the name of  
14 the person who requested the opinion;

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

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

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

25 C. The secretary of state shall provide for

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1 electronic access to reports of expenditures and contributions  
2 and statements of [~~exception~~] no activity submitted  
3 electronically by reporting individuals. Electronic access  
4 shall include access via the internet and shall be in an easily  
5 searchable format."

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

8 "[NEW MATERIAL] STATE ETHICS COMMISSION--JURISDICTION.--

9 A. On and after January 1, 2020:

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

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

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

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1           SECTION 19. A new section of the Voter Action Act is  
2 enacted to read:

3           "[NEW MATERIAL] STATE ETHICS COMMISSION--JURISDICTION.--

4           A. On and after January 1, 2020:

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

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

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

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

23           "[NEW MATERIAL] STATE ETHICS COMMISSION--JURISDICTION.--

24           A. On and after January 1, 2020:

25                     (1) the state ethics commission shall have

1 jurisdiction to investigate and adjudicate a complaint alleging  
 2 a civil violation of a provision of the Lobbyist Regulation Act  
 3 in accordance with the provisions of that act; and

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

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

16 SECTION 21. Section 2-15-8 NMSA 1978 (being Laws 1993,  
 17 Chapter 46, Section 53) is amended to read:

18 "2-15-8. INTERIM LEGISLATIVE ETHICS COMMITTEE--DUTIES.--  
 19 The interim legislative ethics committee is authorized to:

20 A. issue advisory opinions on the interpretation  
 21 and enforcement of ethical principles as applied to the  
 22 legislature and that are not under the jurisdiction of the  
 23 state ethics commission;

24 B. investigate complaints from another member of  
 25 the legislature or a member of the public alleging misconduct

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1 of a legislator;

2 C. investigate referrals made to the [~~co-chairmen~~]  
3 co-chairs of the New Mexico legislative council from the state  
4 ethics commission, attorney general, the secretary of state or  
5 a district attorney;

6 D. hire special counsel or independent hearing  
7 officers as necessary; and

8 E. make recommendations to the respective houses by  
9 the end of the first full week of the next convened regular  
10 session regarding proposed sanctions for ethical misconduct."

11 SECTION 22. Section 10-16-11 NMSA 1978 (being Laws 1967,  
12 Chapter 306, Section 11, as amended) is amended to read:

13 "10-16-11. CODES OF CONDUCT.--

14 A. [~~By January 1, 1994~~] Each elected statewide  
15 executive branch public officer shall adopt a general code of  
16 conduct for employees subject to [~~his~~] the officer's control.  
17 The New Mexico legislative council shall adopt a general code  
18 of conduct for all legislative branch employees. The general  
19 codes of conduct shall be based on the principles set forth in  
20 the Governmental Conduct Act.

21 B. Within thirty days after the general codes of  
22 conduct are adopted, they shall be given to and reviewed with  
23 all executive and legislative branch officers and employees.  
24 All new public officers and employees of the executive and  
25 legislative branches shall review the employees' general code

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1 of conduct prior to or at the time of being hired.

2 C. The head of every executive and legislative  
3 agency and institution of the state may draft a separate code  
4 of conduct for all public officers and employees in that agency  
5 or institution. The separate agency code of conduct shall  
6 prescribe standards, in addition to those set forth in the  
7 Governmental Conduct Act and the general codes of conduct for  
8 all executive and legislative branch public officers and  
9 employees, that are peculiar and appropriate to the function  
10 and purpose for which the agency or institution was created or  
11 exists. The separate codes, upon approval of the responsible  
12 executive branch public officer for executive branch public  
13 officers and employees or the New Mexico legislative council  
14 for legislative branch employees, govern the conduct of the  
15 public officers and employees of that agency or institution  
16 and, except for those public officers and employees removable  
17 only by impeachment, shall, if violated, constitute cause for  
18 dismissal, demotion or suspension. The head of each executive  
19 and legislative branch agency shall adopt ongoing education  
20 programs to advise public officers and employees about the  
21 codes of conduct. All codes shall be filed with the [~~secretary~~  
22 ~~of~~] state ethics commission and are open to public inspection.

23 D. Codes of conduct shall be reviewed at least once  
24 every four years. An amended code shall be filed as provided  
25 in Subsection C of this section.

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1           E. All legislators shall attend a minimum of two  
2 hours of ethics continuing education and training developed and  
3 provided, in consultation with the director of the legislative  
4 council service, by the state ethics commission or a national  
5 state legislative organization of which the state is a member,  
6 approved by the director, biennially."

7           **SECTION 23.** Section 10-16-13.1 NMSA 1978 (being Laws  
8 1993, Chapter 46, Section 35) is amended to read:

9           "10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

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

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

22           **SECTION 24.** Section 10-16-14 NMSA 1978 (being Laws 1967,  
23 Chapter 306, Section 14, as amended) is amended to read:

24           "10-16-14. ENFORCEMENT PROCEDURES.--

25           A. The [~~secretary of~~] state ethics commission may  
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underscored material = new  
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1     ~~[refer]~~ investigate suspected violations of the Governmental  
2     Conduct Act and forward its findings and evidence to the  
3     attorney general, district attorney or appropriate state agency  
4     or legislative body for enforcement. If a suspected violation  
5     involves the office of the ~~[secretary of]~~ state ethics  
6     commission, the attorney general may enforce that act. If a  
7     suspected violation involves the office of the attorney  
8     general, a district attorney may enforce that act.

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

12             C. If the ~~[attorney general]~~ state ethics  
13     commission determines that there is sufficient cause to file a  
14     complaint ~~[against]~~ to remove from office a public officer  
15     removable only by impeachment, ~~[he]~~ the commission shall refer  
16     the matter to the house of representatives of the legislature.  
17     If within thirty days after the referral the house of  
18     representatives has neither formally declared that the charges  
19     contained in the complaint are not substantial nor instituted  
20     hearings on the complaint, the ~~[attorney general]~~ state ethics  
21     commission shall make public the nature of the charges but ~~[he]~~  
22     shall make clear that the merits of the charges have never been  
23     determined. Days during which the legislature is not in  
24     session shall not be included in determining the thirty-day  
25     period.

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1           D. Violation of the provisions of the Governmental  
2 Conduct Act by any public officer or employee, other than those  
3 covered by Subsection C of this section, is grounds for  
4 discipline, including dismissal, demotion or suspension.  
5 Complaints against executive branch employees may be filed with  
6 the agency head and reviewed pursuant to the procedures  
7 provided in the Personnel Act. Complaints against legislative  
8 branch employees may be filed with and reviewed pursuant to  
9 procedures adopted by the New Mexico legislative council.  
10 Complaints against judicial branch employees may be filed and  
11 reviewed pursuant to the procedures provided in the judicial  
12 personnel rules. Complaints against employees subject to the  
13 State Ethics Commission Act may also be filed with the state  
14 ethics commission, which shall determine whether to forward a  
15 complaint to the appropriate state agency or investigate the  
16 complaint on its own.

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

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1           SECTION 25. Section 10-16-18 NMSA 1978 (being Laws 1995,  
2 Chapter 153, Section 23) is amended to read:

3           "10-16-18. ENFORCEMENT--CIVIL PENALTIES.--

4           A. If the [~~secretary of~~] state ethics commission  
5 reasonably believes that a person committed, or is about to  
6 commit, a violation of the Governmental Conduct Act, the  
7 [~~secretary of~~] state [~~shall~~] ethics commission may refer the  
8 matter to the attorney general or a district attorney for  
9 enforcement.

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

20           SECTION 26. Section 10-16A-1 NMSA 1978 (being Laws 1993,  
21 Chapter 46, Section 39) is amended to read:

22           "10-16A-1. SHORT TITLE--FINANCIAL DISCLOSURE ACT.--  
23 [~~Sections 39 through 45 of this act~~] Chapter 10, Article 16A  
24 NMSA 1978 may be cited as the "Financial Disclosure Act"."

25           SECTION 27. Section 10-16A-5 NMSA 1978 (being Laws 1993,

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1 Chapter 46, Section 43) is amended to read:

2 "10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

3 A. The secretary of state shall advise and seek to  
4 educate all persons required to perform duties under the  
5 Financial Disclosure Act of those duties. This includes  
6 providing timely advance notice of the required financial  
7 disclosure statement and preparing forms that are clear and  
8 easy to complete.

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

18 SECTION 28. Section 10-16A-6 NMSA 1978 (being Laws 1993,  
19 Chapter 46, Section 44, as amended) is amended to read:

20 "10-16A-6. INVESTIGATIONS--BINDING ARBITRATION--FINES--  
21 ENFORCEMENT.--

22 A. The state ethics commission and the secretary of  
23 state may conduct thorough examinations of statements and  
24 initiate investigations to determine whether the Financial  
25 Disclosure Act has been violated. Any person who believes that

1 act has been violated may file a written complaint with the  
2 [~~secretary of~~] state ethics commission. The [~~secretary of~~  
3 ~~state~~] commission shall adopt procedures for processing  
4 complaints and notifications of violations.

5 B. If the [~~secretary of~~] state ethics commission  
6 determines that a violation has occurred for which a penalty  
7 should be imposed, the [~~secretary of state~~] commission shall so  
8 notify the person charged and impose the penalty. If the  
9 person charged disputes the [~~secretary of state's~~] commission's  
10 determination, the person charged may request binding  
11 arbitration.

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

21 D. The arbitrator may take any action the  
22 [~~secretary of~~] state ethics commission is authorized to take.  
23 The arbitrator shall state the reasons for [~~his~~] the decision  
24 in a written document that shall be a public record. The  
25 decision shall be final and binding. The decision shall be

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1 issued within thirty days of the conclusion of the hearing.  
2 Unless otherwise provided for in this section, or by rule or  
3 regulation adopted by the [~~secretary of~~] state ethics  
4 commission, the procedures for the arbitration shall be  
5 governed by the Uniform Arbitration Act. No arbitrator shall  
6 be subject to liability for actions taken pursuant to this  
7 section.

8 E. Any person who files a statement or report after  
9 the deadline imposed by the Financial Disclosure Act or any  
10 person who files a false or incomplete statement or report is  
11 liable for and shall pay to the secretary of state, at or from  
12 the time initially required for the filing, fifty dollars  
13 (\$50.00) per day for each regular working day after the time  
14 required for the filing of the statement or report until the  
15 complete report is filed, up to a maximum of five thousand  
16 dollars (\$5,000).

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

21 SECTION 29. Section 10-16A-8 NMSA 1978 (being Laws 1995,  
22 Chapter 153, Section 25) is amended to read:

23 "10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--

24 A. If the [~~secretary of~~] state ethics commission  
25 reasonably believes that a person committed, or is about to

1 commit, a violation of the Financial Disclosure Act, the  
 2 [~~secretary of state shall~~] commission may refer the matter to  
 3 the attorney general or a district attorney for enforcement.

4 B. The state ethics commission may institute a  
 5 civil action in district court or refer a matter to the  
 6 attorney general or a district attorney [~~may~~] to institute a  
 7 civil action in district court if a violation has occurred or  
 8 to prevent a violation of any provision of the Financial  
 9 Disclosure Act. Relief may include a permanent or temporary  
 10 injunction, a restraining order or any other appropriate order,  
 11 including an order for a civil penalty of two hundred fifty  
 12 dollars (\$250) for each violation not to exceed five thousand  
 13 dollars (\$5,000)."

14 SECTION 30. Section 10-16B-1 NMSA 1978 (being Laws 2007,  
 15 Chapter 226, Section 1) is amended to read:

16 "10-16B-1. SHORT TITLE.--~~[This act]~~ Chapter 10, Article  
 17 16B NMSA 1978 may be cited as the "Gift Act"."

18 SECTION 31. A new section of the Gift Act is enacted to  
 19 read:

20 "[NEW MATERIAL] INVESTIGATIONS--COMPLAINTS--ENFORCEMENT.--

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

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1           B. If the state ethics commission determines that a  
2 violation has occurred, the commission shall refer the matter  
3 to the attorney general for criminal prosecution."

4           **SECTION 32.** A new section of the Procurement Code is  
5 enacted to read:

6           "[NEW MATERIAL] STATE ETHICS COMMISSION JURISDICTION.--The  
7 state ethics commission may investigate complaints against a  
8 contractor who has a contract with a state agency, school  
9 district or charter school or a person who has submitted a  
10 competitive sealed proposal or competitive sealed bid for a  
11 contract with a state agency, school district or charter  
12 school. The state ethics commission may impose the civil  
13 penalties authorized in Sections 13-1-196 through 13-1-198 NMSA  
14 1978 pursuant to the provisions of those sections."

15           **SECTION 33.** Section 13-1-196 NMSA 1978 (being Laws 1984,  
16 Chapter 65, Section 169) is amended to read:

17           "13-1-196. CIVIL PENALTY.--Any person, firm or  
18 corporation that knowingly violates any provision of the  
19 Procurement Code is subject to a civil penalty of not more than  
20 one thousand dollars (\$1,000) for each procurement in violation  
21 of any provision of the Procurement Code. The [~~attorney~~  
22 ~~general or the~~] district attorney in the jurisdiction in which  
23 the violation occurs or the state ethics commission is  
24 empowered to bring a civil action for the enforcement of any  
25 provision of the Procurement Code; provided that the commission

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1 may refer a matter for enforcement to the attorney general or  
2 the district attorney in the jurisdiction in which the  
3 violation occurred. Any penalty collected under the provisions  
4 of this section shall be credited to the general fund of the  
5 political subdivision in which the violation occurred and on  
6 whose behalf the suit was brought."

7           **SECTION 34. TEMPORARY PROVISION--REPORT ON EXTENSION OF**  
8 **JURISDICTION.--**

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

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

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

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

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

22                   (4) recommended changes to existing law.

23           **SECTION 35. APPLICABILITY.--**The provisions of the State  
24 Ethics Commission Act apply only to conduct occurring on or  
25 after July 1, 2019.

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1           **SECTION 36. EFFECTIVE DATE.--**

2                   A. The effective date of the provisions of Sections  
3 1 through 8 of this act is July 1, 2019.

4                   B. The effective date of the provisions of Sections  
5 9 through 35 of this act is January 1, 2020.

underscoring material = new  
~~[bracketed material]~~ = delete