

## FOR IMMEDIATE RELEASE

*Albuquerque, N.M., May 29, 2020* – Today the New Mexico Court of Appeals issued an [opinion](#) in four consolidated cases, concluding that a key Governmental Conduct Act (GCA) provision, NMSA 1978, § 10-16-3(A), is both constitutional and enforceable in criminal actions. Section 10-16-3(A) provides:

A legislator or public officer or employee shall treat the legislator's or public officer's or employee's government position as a public trust. The legislator or public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.

Defendants in the consolidated cases argued that Section 10-16-3(A) did not create a criminal offense and, even if it did, the statute was too vague to be enforceable. The State Ethics Commission filed an *amicus curiae* brief, arguing that Section 10-16-3 of the GCA creates enforceable, legal duties for legislators and governmental officers and employees.

The Court of Appeals rejected the Defendants' effort to invalidate Section 10-16-3(A), concluding that “this subsection (1) mandates the use of powers and resources of a legislator's, public officer's, or public employee's public office only for the benefit of the people of New Mexico, and (2) prohibits legislators, public officers, and public employees from exploiting their powers and resources for private gain.” A copy of the Court's opinion can be found [here](#).

The Court's ruling that Section 10-16-3(A) is enforceable reaffirms the GCA's critical role in New Mexico's efforts to address public corruption. As the Court of Appeals noted, the State Ethics Commission has jurisdiction to institute a civil action to enforce the GCA. The Commission also has the power to hear and rule on complaints by the members of the public alleging GCA violations by state government officials and employees.

Building on the Court's ruling today, the Commission will make recommendations for amendments to the GCA to further enhance its effectiveness.

For more information about the State Ethics Commission: [www.sec.state.nm.us](http://www.sec.state.nm.us)