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HOUSE BILL 30

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2011

INTRODUCED BY

Dennis J. Kintigh

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; MERGING THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT WITH THE DEPARTMENT OF PUBLIC SAFETY; PROVIDING FOR TRANSFERS OF FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND REFERENCES; REPEALING THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF LAWS IN LAWS 2007 AND LAWS 2009; DECLARING AN EMERGENCY.

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

SECTION 1. Section 3-18-7 NMSA 1978 (being Laws 1975, Chapter 14, Section 1, as amended) is amended to read:

"3-18-7. ADDITIONAL COUNTY AND MUNICIPAL POWERS--FLOOD AND MUDSLIDE HAZARD AREAS--FLOOD PLAIN PERMITS--LAND USE

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1 CONTROL--JURISDICTION--AGREEMENT.--

2 A. For the purpose of minimizing or eliminating
3 damage from floods or mudslides in federal emergency management
4 agency and locally designated flood-prone areas and for the
5 purpose of promoting health, safety and the general welfare, a
6 county or municipality with identified flood or mudslide hazard
7 areas shall by ordinance:

8 (1) designate and regulate flood plain areas
9 having special flood or mudslide hazards;

10 (2) prescribe standards for constructing,
11 altering, installing or repairing buildings and other
12 improvements under a permit system within a designated flood or
13 mudslide hazard area;

14 (3) require review by the local flood plain
15 manager for development within a designated flood or mudslide
16 hazard area; provided that final decisions are approved by the
17 local governing body;

18 (4) review subdivision proposals and other new
19 developments within a designated flood or mudslide hazard area
20 to ensure that:

21 (a) all such proposals are consistent
22 with the need to minimize flood damage;

23 (b) all public utilities and facilities
24 such as sewer, gas, electrical and water systems are designed
25 to minimize or eliminate flood damage; and

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1 (c) adequate drainage is provided so as
2 to reduce exposure to flood hazards;

3 (5) require new or replacement water supply
4 systems or sanitary sewage systems within a designated flood or
5 mudslide hazard area to be designed to minimize or eliminate
6 infiltration of flood waters into the systems and discharges
7 from the systems into flood waters and require on-site waste
8 disposal systems to be located so as to avoid impairment of
9 them or contamination from them during flooding; and

10 (6) designate and regulate floodways for the
11 passage of flood waters.

12 B. A flood plain ordinance adopted pursuant to this
13 section shall substantially conform to the minimum standards
14 prescribed by the federal insurance administration, regulation
15 1910 issued pursuant to Subsection 7(d), 79 Stat. 670, Section
16 1361, 82 Stat. 587 and 82 Stat. 575, all as amended.

17 C. A county or municipality that enacts a flood
18 plain ordinance shall designate a person, certified pursuant to
19 the state-certified flood plain manager program, as the flood
20 plain manager to administer the flood plain ordinance.

21 D. A county or municipality that has areas
22 designated by the federal emergency management agency and the
23 county or municipality as flood-prone shall participate in the
24 national flood insurance program.

25 E. A county or municipality shall have exclusive

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1 jurisdiction over flood plain permits issued under its
2 respective flood plain ordinance in accordance with this
3 section and so long as all structures built in flood plains are
4 subject to inspection and approval pursuant to the Construction
5 Industries Licensing Act. Notwithstanding Section 3-18-6 NMSA
6 1978, when a municipality adopts a flood plain ordinance
7 pursuant to Paragraph (2) of Subsection A of this section, the
8 municipality's jurisdiction under the flood plain ordinance may
9 take precedence over a respective county flood plain ordinance
10 within the municipality's boundary and within the
11 municipality's subdividing and platting jurisdiction.

12 F. A county or municipality shall designate flood
13 plain areas having special flood or mudslide hazards in
14 substantial conformity with areas identified as flood- or
15 mudslide-prone by the federal insurance administration pursuant
16 to the national flood insurance program and may designate areas
17 as flood- or mudslide-prone that may not be so identified by
18 the federal insurance administration.

19 G. A municipality or county adopting a flood plain
20 ordinance pursuant to this section may enter into reciprocal
21 agreements with any agency of the state, other political
22 subdivisions or the federal government in order to effectively
23 carry out the provisions of this section.

24 H. The homeland security and emergency management
25 division of the department of public safety is designated as

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1 the state coordinating agency for the national flood insurance
2 program and may assist counties or municipalities when
3 requested by a county or municipality to provide technical
4 advice and assistance."

5 SECTION 2. Section 9-15-48 NMSA 1978 (being Laws 2003,
6 Chapter 166, Section 1 and Laws 2003, Chapter 170, Section 1,
7 as amended) is amended to read:

8 "9-15-48. OFFICE OF MILITARY BASE PLANNING AND SUPPORT
9 CREATED--DUTIES.--

10 A. The "office of military base planning and
11 support" is created, which is administratively attached to the
12 economic development department. The department shall provide
13 administrative services to the office.

14 B. The ~~[governor's homeland security adviser]~~
15 secretary of public safety shall appoint a director of the
16 office of military base planning and support.

17 C. The director of the office of military base
18 planning and support shall:

19 (1) employ, under the authorization of the
20 ~~[governor's homeland security adviser]~~ secretary of public
21 safety, the staff necessary to carry out the work of the office
22 of military base planning and support and the military base
23 planning commission;

24 (2) support the commission;

25 (3) inform the governor and the ~~[governor's~~

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1 ~~homeland security adviser]~~ secretary of public safety about
2 issues impacting the military bases in the state, including
3 infrastructure requirements, environmental needs, military
4 force structure possibilities, tax implications, property
5 considerations and issues requiring coordination and support
6 from other state agencies;

7 (4) serve as a liaison with the community
8 organizations whose purpose is to support the long-term
9 viability of the military bases;

10 (5) communicate with the staff of the state's
11 congressional delegation; and

12 (6) identify issues, prepare information and
13 provide for presentations necessary for the commission to carry
14 out its duties."

15 SECTION 3. Section 9-15-49 NMSA 1978 (being Laws 2003,
16 Chapter 166, Section 2 and Laws 2003, Chapter 170, Section 2,
17 as amended) is amended to read:

18 "9-15-49. MILITARY BASE PLANNING COMMISSION CREATED--
19 COMPOSITION.--

20 A. The "military base planning commission" is
21 created, which is administratively attached to the economic
22 development department. The department shall provide
23 administrative services to the commission.

24 B. The commission consists of seventeen members,
25 fifteen of which are appointed by the governor with the advice

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1 and consent of the senate. The commission shall include the
2 lieutenant governor, the [~~governor's homeland security adviser~~]
3 secretary of public safety and appropriate representatives from
4 the counties, or adjoining counties, in which military bases
5 are located.

6 C. The governor shall appoint a chair from among
7 the members of the commission. The commission shall meet at
8 the call of the chair and shall meet not less than quarterly.
9 Members of the commission shall not be paid but shall receive
10 per diem and mileage expenses as provided in the Per Diem and
11 Mileage Act.

12 D. Notwithstanding the provisions of the Open
13 Meetings Act, meetings of the commission shall be closed to the
14 public when proprietary alternative New Mexico military base
15 realignment or closure strategies or any information regarding
16 relocation of military units is discussed.

17 E. Information developed or obtained by the
18 commission that pertains to proprietary commission strategies
19 or related to the relocation of military units shall be
20 confidential and not subject to inspection pursuant to the
21 Inspection of Public Records Act."

22 SECTION 4. Section 9-19-3 NMSA 1978 (being Laws 1987,
23 Chapter 254, Section 3, as amended) is amended to read:

24 "9-19-3. PURPOSE.--The purpose of the Department of
25 Public Safety Act is to establish a single, unified department

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1 to consolidate state law enforcement [~~and~~], safety and homeland
2 security and emergency management functions in order to provide
3 better management, real coordination and more efficient use of
4 state resources and manpower in responding to New Mexico's
5 public safety and homeland security and emergency management
6 needs and problems and to improve the professionalism of the
7 state's law enforcement and investigative functions and
8 personnel and the state's homeland security and emergency
9 management functions and personnel."

10 SECTION 5. Section 9-19-4 NMSA 1978 (being Laws 1987,
11 Chapter 254, Section 4, as amended) is amended to read:

12 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the
13 executive branch the "department of public safety". The
14 department shall be a cabinet department and shall consist of,
15 but not be limited to, [~~five~~] six program divisions, an
16 administrative division and an information technology division
17 as follows:

- 18 A. the New Mexico state police division;
- 19 B. the special investigations division;
- 20 C. the training and recruiting division;
- 21 D. the technical support division;
- 22 E. the administrative services division;
- 23 F. the motor transportation division; [~~and~~]
- 24 G. the information technology division; and
- 25 H. the homeland security and emergency management

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1 division."

2 SECTION 6. Section 9-19-6 NMSA 1978 (being Laws 1987,
3 Chapter 254, Section 6, as amended) is amended to read:

4 "9-19-6. SECRETARY--DUTIES AND GENERAL POWERS.--

5 A. The secretary is responsible to the governor for
6 the operation of the department. It is [~~his~~] the secretary's
7 duty to manage all operations of the department and to
8 administer and enforce the laws with which [~~he~~] the secretary
9 or the department is charged.

10 B. To perform [~~his~~] the secretary's duties, the
11 secretary has every power expressly enumerated in the laws,
12 whether granted to the secretary or the department or any
13 division of the department, except where authority conferred
14 upon any division is explicitly exempted from the secretary's
15 authority by statute. In accordance with these provisions, the
16 secretary shall:

17 (1) except as otherwise provided in the
18 Department of Public Safety Act, exercise general supervisory
19 and appointing authority over all department employees, subject
20 to any applicable personnel laws and regulations; provided that
21 the secretary shall not reduce positions for the seventy-sixth
22 fiscal year budgeted in the General Appropriation Act of 1987
23 except for cause, by attrition or by occurrence of a vacancy;

24 (2) except as otherwise provided in the
25 Department of Public Safety Act, serve as the coordinating

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1 officer for all departments or agencies and all department and
2 agency employees required to provide services after an
3 emergency has been declared by the governor;

4 [~~(2)~~] (3) delegate authority to subordinates
5 as [~~he~~] the secretary deems necessary and appropriate, clearly
6 delineating such delegated authority and the limitations
7 thereto;

8 [~~(3)~~] (4) organize the department into those
9 organizational units [~~he~~] the secretary deems will enable it to
10 function most efficiently, subject to any provisions of law
11 requiring or establishing specific organizational units;

12 [~~(4)~~] (5) within the limitations of available
13 appropriations and applicable laws, employ and fix the
14 compensation of those persons necessary to discharge [~~his~~] the
15 secretary's duties;

16 [~~(5)~~] (6) take administrative action by
17 issuing orders and instructions, not inconsistent with the law,
18 to assure implementation of and compliance with the provisions
19 of law with the administration or execution of which [~~he~~] the
20 secretary is responsible and to enforce those orders and
21 instructions by appropriate administrative action [~~or actions~~]
22 in the court;

23 [~~(6)~~] (7) conduct research and studies that
24 will improve the operation of the department and examine other
25 entities and functions of state government related to public

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1 safety for purposes of possible transfer to the department;

2 [~~(7)~~] (8) provide courses of instruction and
3 practical training for employees of the department and other
4 persons involved in the administration of programs with the
5 objective of improving the operations and efficiency of
6 administration;

7 [~~(8)~~] (9) prepare an annual budget of the
8 department;

9 [~~(9)~~] (10) provide cooperation, at the request
10 of heads of administratively attached agencies, in order to:

11 (a) minimize or eliminate duplication of
12 services and jurisdictional conflicts;

13 (b) coordinate activities and resolve
14 problems of mutual concern; and

15 (c) resolve by agreement the manner and
16 extent to which the department shall provide budgeting,
17 recordkeeping and related clerical assistance to
18 administratively attached agencies, if any;

19 [~~(10)~~] (11) appoint, with the governor's
20 consent, for each division, a director. These appointed
21 positions are exempt from the provisions of the Personnel Act.
22 Persons appointed to these positions shall serve at the
23 pleasure of the secretary;

24 [~~(11)~~] (12) appoint the director of the New
25 Mexico law enforcement academy, subject to the approval of the

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1 New Mexico law enforcement academy board;

2 ~~[(12)]~~ (13) give bond in the penal sum of
3 twenty-five thousand dollars (\$25,000) and require division
4 directors to each give bond in the penal sum of ten thousand
5 dollars (\$10,000), conditioned upon the faithful performance of
6 duties as provided in the Surety Bond Act, with the department
7 paying the cost of such bonds; and

8 ~~[(13)]~~ (14) require performance bonds of such
9 employees and officers as ~~[he]~~ the secretary deems necessary as
10 provided in the Surety Bond Act, with the department paying the
11 costs of such bonds.

12 C. The secretary may apply for and receive, with
13 the governor's approval, in the name of the department, any
14 public or private funds, including but not limited to United
15 States government funds, available to the department to carry
16 out its programs, duties or services.

17 D. Where functions of departments overlap or a
18 function assigned to one department could better be performed
19 by another department, the secretary may recommend appropriate
20 legislation to the next session of the legislature for its
21 approval.

22 E. The secretary may make and adopt such reasonable
23 and procedural rules and regulations as may be necessary to
24 carry out the duties of the department and its divisions. No
25 rule or regulation promulgated by the director of any division

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1 in carrying out the functions and duties of the division shall
2 be effective until approved by the secretary unless otherwise
3 provided by statute. Unless otherwise provided by statute, no
4 regulation affecting any person or agency outside the
5 department shall be adopted, amended or repealed without a
6 public hearing on the proposed action before the secretary or a
7 hearing officer designated by ~~[him]~~ the secretary. The public
8 hearing shall be held in Santa Fe unless otherwise permitted by
9 statute. Notice of the subject matter of the regulation, the
10 action proposed to be taken, the time and place of the hearing,
11 the manner in which interested persons may present their views
12 and the method by which copies of the proposed regulation,
13 proposed amendment or repeal of an existing regulation may be
14 obtained shall be published once at least thirty days prior to
15 the hearing date in a newspaper of general circulation in the
16 state and mailed at least thirty days prior to the hearing date
17 to all persons who have made a written request for advance
18 notice of hearing.

19 F. All rules and regulations shall be filed in
20 accordance with the State Rules Act."

21 SECTION 7. Section 9-19-7 NMSA 1978 (being Laws 1987,
22 Chapter 254, Section 7, as amended) is amended to read:

23 "9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND
24 DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

25 A. The organizational units of the department and

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1 the officers of those units specified by law shall have all the
2 powers and duties enumerated in the specific laws involved.
3 However, the carrying out of those powers and duties shall be
4 subject to the direction and supervision of the secretary, who
5 shall retain the final decision-making authority and
6 responsibility for the administration of any such laws as
7 provided in Subsection B of Section 9-19-6 NMSA 1978. The
8 department shall have access to all records, data and
9 information of other state departments, agencies and
10 institutions, including its own organizational units, not
11 specifically held confidential by law.

12 B. The New Mexico state police division shall
13 consist of the commissioned officers and civilian personnel,
14 including all communications equipment operators, of the New
15 Mexico state police uniform division and the commissioned
16 officers and civilian personnel of the New Mexico state police
17 criminal division and such other personnel as may be assigned
18 by the secretary or by the governor pursuant to an executive
19 order as authorized in the Department of Public Safety Act.

20 C. The special investigations division shall
21 consist of [~~the~~] commissioned law enforcement personnel [~~of the~~
22 ~~department of alcoholic beverage control~~] and such other
23 personnel as may be assigned by the secretary or by the
24 governor pursuant to an executive order as authorized in the
25 Department of Public Safety Act. The division is responsible

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1 for the enforcement of the New Mexico Bingo and Raffle Act and
2 the Liquor Control Act.

3 D. The technical support division shall consist of
4 functions such as communications, crime laboratory and records.

5 E. The training and recruiting division shall
6 consist of the personnel of the New Mexico law enforcement
7 academy, the New Mexico state police training division and all
8 other training personnel and functions of the department as the
9 secretary may transfer to this division.

10 F. The administrative services division shall
11 consist of the administrative services and services divisions
12 of the New Mexico state police and those administrative support
13 personnel of the other existing departments, divisions or
14 offices as the secretary deems necessary.

15 G. The homeland security and emergency management
16 division, unless otherwise directed by the secretary, shall
17 consist of functions formerly exercised by the homeland
18 security and emergency management department, including:

19 (1) coordinating the homeland security and
20 emergency management efforts of all state and local government
21 agencies, as well as enlisting cooperation from private
22 entities such as health care providers;

23 (2) applying for and accepting federal funds
24 for homeland security, administering the funds and developing
25 criteria to allocate grants to local governments, tribes, state

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1 agencies and other qualified entities;

2 (3) acting as a liaison between federal, state
3 and local agencies to effect the improved sharing of
4 counterterrorism intelligence;

5 (4) providing information to the general
6 public and to private businesses that is essential to ensuring
7 their safety and security and providing the governor with
8 timely information relating to emergencies, disasters and acts
9 of terrorism or terrorist threats;

10 (5) establishing security standards for state
11 facilities and for protection of their occupants and developing
12 plans for the continuity of state government operations in the
13 event of a threat or act of terrorism or other man-made or
14 natural disaster;

15 (6) identifying the state's critical
16 infrastructures and assisting public and private entities with
17 developing plans and procedures designed to implement the
18 protective actions necessary to continue operations;

19 (7) coordinating state agency and local
20 government plans for prevention, preparedness and response with
21 a focus on an all-hazards approach;

22 (8) coordinating law enforcement
23 counterterrorism prevention, preparedness and response training
24 on a statewide basis, including training for emergency
25 responders, government officials, health care providers and

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1 others as appropriate;

2 (9) working with emergency response and
3 emergency management programs and providing assistance in
4 developing and conducting terrorism response exercises for
5 emergency responders, government officials, health care
6 providers and others;

7 (10) coordinating public safety responses to
8 an act of terrorism or a terrorist threat;

9 (11) developing and maintaining a statewide
10 plan and strategy to manage and allocate federal grant funds
11 required to provide the state's emergency response community
12 with the equipment necessary to respond to an act of terrorism
13 involving a weapon of mass destruction; and

14 (12) performing such other duties relating to
15 homeland security as may be assigned by the governor."

16 SECTION 8. A new section of the Department of Public
17 Safety Act is enacted to read:

18 "[NEW MATERIAL] COOPERATION WITH FEDERAL GOVERNMENT--
19 AUTHORITY OF SECRETARY--SINGLE STATE AGENCY STATUS.--

20 A. The department is authorized to cooperate with
21 the federal government in the administration of homeland
22 security and emergency management programs in which financial
23 or other participation by the federal government is authorized
24 or mandated under state or federal laws, rules or orders. The
25 department may enter into agreements with agencies of the

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1 federal government to implement homeland security and emergency
2 management programs subject to availability of appropriated
3 state funds and any provisions of state laws applicable to such
4 agreements or participation by the state.

5 B. The governor may by appropriate order designate
6 the department as the single state agency for the
7 administration of any homeland security or emergency management
8 program when that designation is a condition of federal
9 financial or other participation in the program under
10 applicable federal law, rule or order. Whether or not a
11 federal condition exists, the governor may designate the
12 department as the single state agency for the administration of
13 any homeland security or emergency management program. No
14 designation of a single state agency under the authority
15 granted in this section shall be made in contravention of state
16 law."

17 SECTION 9. Section 12-10-4 NMSA 1978 (being Laws 1959,
18 Chapter 190, Section 5, as amended) is amended to read:

19 "12-10-4. ALL HAZARD EMERGENCY MANAGEMENT--POWERS OF THE
20 GOVERNOR.--

21 A. The governor shall have general direction and
22 control of the activities of the [~~homeland security and~~
23 ~~emergency management~~] department of public safety and shall be
24 responsible for carrying out the provisions of the All Hazard
25 Emergency Management Act and, in the event of any man-made or

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1 natural disaster causing or threatening widespread physical or
2 economic harm that is beyond local control and requiring the
3 resources of the state, shall exercise direction and control
4 over any and all state forces and resources engaged in
5 emergency operations or related all hazard emergency management
6 functions within the state.

7 B. In carrying out the provisions of the All Hazard
8 Emergency Management Act, the governor is authorized to:

9 (1) cooperate with the federal government and
10 agree to carry out all hazard emergency management
11 responsibilities delegated in accordance with existing federal
12 laws and policies and cooperate with other states and with
13 private agencies in all matters relating to the all hazard
14 emergency management of the state and nation;

15 (2) issue, amend or rescind the necessary
16 orders, rules and procedures to carry out the provisions of the
17 All Hazard Emergency Management Act;

18 (3) provide those resources and services
19 necessary to avoid or minimize economic or physical harm until
20 a situation becomes stabilized and again under local self-
21 support and control, including the provision, on a temporary,
22 emergency basis, of lodging, sheltering, health care, food,
23 transportation or shipping necessary to protect lives or public
24 property or for any other action necessary to protect the
25 public health, safety and welfare;

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1 (4) prepare a comprehensive emergency
2 operations plan and program and to integrate the state
3 emergency operations plan and program with the emergency
4 operations plans and programs of the federal government and
5 other states and to coordinate the preparation of emergency
6 operations plans and programs by the political subdivisions of
7 this state;

8 (5) procure supplies and equipment, to
9 institute training programs and public information programs and
10 to take all necessary preparatory actions, including the
11 partial or full mobilization of state and local government
12 forces and resources in advance of actual disaster, to ensure
13 the furnishing of adequately trained and equipped emergency
14 forces of government and auxiliary personnel to cope with
15 disasters resulting from enemy attack or other causes; and

16 (6) enter into mutual aid agreements with
17 other states and to coordinate mutual aid agreements between
18 political subdivisions of the state."

19 **SECTION 10.** Section 12-10-6 NMSA 1978 (being Laws 1959,
20 Chapter 190, Section 7, as amended) is amended to read:

21 "12-10-6. MUTUAL AID AGREEMENTS.--Each political
22 subdivision may, in cooperation with other public and private
23 agencies within the state, enter into mutual aid agreements for
24 reciprocal emergency management aid and assistance. The
25 agreements shall be consistent with the state emergency

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1 operations plan, and in time of emergency it shall be the duty
2 of each local emergency management organization to render
3 assistance within its capabilities and in accordance with the
4 provisions of the program and plan promulgated by the [~~homeland~~
5 ~~security and emergency management~~] department of public
6 safety."

7 SECTION 11. Section 12-10-9 NMSA 1978 (being Laws 1959,
8 Chapter 190, Section 9, as amended) is amended to read:

9 "12-10-9. EXISTING SERVICES AND FACILITIES TO BE USED BY
10 AGENCY.--The governor, the [~~homeland security and emergency~~
11 ~~management~~] department of public safety and the governing
12 bodies of the political subdivisions of the state are directed
13 to use, in carrying out the provisions of the All Hazard
14 Emergency Management Act, the services, equipment, supplies and
15 facilities of existing departments, offices and agencies of the
16 state and its political subdivisions to the maximum extent
17 practicable, and the officers and personnel of all departments,
18 offices and agencies of the state and its political
19 subdivisions are directed to cooperate with and extend their
20 services and facilities to the governor or to the department or
21 to the local coordinators of all hazard emergency management
22 throughout the state upon request."

23 SECTION 12. Section 12-10-11 NMSA 1978 (being Laws 2002,
24 Chapter 83, Section 2, as amended) is amended to read:

25 "12-10-11. OUT-OF-STATE LICENSE HOLDERS--POWERS--

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1 DUTIES.--During an emergency, a person who holds a license,
2 certificate or other permit that is issued by a state or
3 territory of the United States and that evidences the meeting
4 of qualifications for professional, mechanical or other skills
5 may be credentialed, if appropriate and approved by the
6 department of health or the [~~homeland security and emergency~~
7 ~~management~~] department of public safety, to render aid
8 involving those skills to meet an emergency, subject to
9 limitations and conditions as the governor may prescribe by
10 executive order or otherwise. A person shall be considered a
11 public employee for the purposes of the Tort Claims Act when
12 approved to perform those duties."

13 SECTION 13. Section 12-10-13 NMSA 1978 (being Laws 2002,
14 Chapter 83, Section 4, as amended) is amended to read:

15 "12-10-13. IN-STATE LICENSE HOLDERS--POWERS--DUTIES.--
16 During an emergency, a person who holds a license, certificate
17 or other permit that is issued by the state and that evidences
18 the meeting of qualifications for professional, mechanical or
19 other skills may be credentialed, if appropriate and approved
20 by the department of health or the [~~homeland security and~~
21 ~~emergency management~~] department of public safety, to render
22 aid involving those skills to meet a declared emergency, and
23 shall be considered a public employee for the purposes of the
24 Tort Claims Act when approved to perform those duties."

25 SECTION 14. Section 12-10A-3 NMSA 1978 (being Laws 2003,
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1 Chapter 218, Section 3, as amended) is amended to read:

2 "12-10A-3. DEFINITIONS.--As used in the Public Health
3 Emergency Response Act:

4 A. "attorney general" means the New Mexico attorney
5 general;

6 B. "court" means the district court for the
7 judicial district where a public health emergency is occurring,
8 the district court for Santa Fe county or, in the event that a
9 district court cannot adequately provide services, a district
10 court designated by the New Mexico supreme court;

11 C. "director" or "state director" means the [~~state~~]
12 director of the homeland security and emergency management
13 division of the department of public safety or the [~~state~~]
14 director's designee;

15 D. "health care supplies" means medication, durable
16 medical equipment, instruments, linens or any other material
17 that the state may need to use in a public health emergency,
18 including supplies for preparedness, mitigation and recovery;

19 E. "health facility" means:

20 (1) a facility licensed by the state pursuant
21 to the provisions of the Public Health Act;

22 (2) a nonfederal facility or building, whether
23 public or private, for-profit or nonprofit, that is used,
24 operated or designed to provide health services, medical
25 treatment, nursing services, rehabilitative services or

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1 preventive care;

2 (3) a federal facility, when the appropriate
3 federal entity provides its consent; or

4 (4) the following properties when they are
5 used for, or in connection with, health-related activities:

6 (a) laboratories;

7 (b) research facilities;

8 (c) pharmacies;

9 (d) laundry facilities;

10 (e) health personnel training and
11 lodging facilities;

12 (f) patient, guest and health personnel
13 food service facilities; and

14 (g) offices or office buildings used by
15 persons engaged in health care professions or services;

16 F. "isolation" means the physical separation for
17 possible medical care of persons who are infected or who are
18 reasonably believed to be infected with a threatening
19 communicable disease or potential threatening communicable
20 disease from non-isolated persons to protect against the
21 transmission of the threatening communicable disease to
22 non-isolated persons;

23 G. "public health emergency" means the occurrence
24 or imminent threat of exposure to an extremely dangerous
25 condition or a highly infectious or toxic agent, including a

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1 threatening communicable disease, that poses an imminent threat
2 of substantial harm to the population of New Mexico or any
3 portion thereof;

4 H. "public health official" means the secretary of
5 health or the secretary's designee, including a qualified
6 public individual or group or a qualified private individual or
7 group, as determined by the secretary of health;

8 I. "quarantine" means the precautionary physical
9 separation of persons who have or may have been exposed to a
10 threatening communicable disease or a potentially threatening
11 communicable disease and who do not show signs or symptoms of a
12 threatening communicable disease, from non-quarantined persons,
13 to protect against the transmission of the disease to non-
14 quarantined persons;

15 J. "secretary of health" means the secretary of
16 health or the secretary's designee;

17 K. "secretary of public safety" means the secretary
18 of public safety or the secretary's designee; and

19 L. "threatening communicable disease" means a
20 disease that causes death or great bodily harm that passes from
21 one person to another and for which there are no means by which
22 the public can reasonably avoid the risk of contracting the
23 disease. "Threatening communicable disease" does not include
24 acquired immune deficiency syndrome or other infections caused
25 by the human immunodeficiency virus."

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1 SECTION 15. Section 12-10D-1 NMSA 1978 (being Laws 2009,
2 Chapter 111, Section 1) is amended to read:

3 "12-10D-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article
4 12D NMSA 1978 may be cited as the "Emergency Communications
5 Interoperability Act".

6 SECTION 16. Section 12-10D-2 NMSA 1978 (being Laws 2009,
7 Chapter 111, Section 2) is amended to read:

8 "12-10D-2. DEFINITIONS.--As used in the Emergency
9 Communications Interoperability Act:

10 A. "department" means the ~~[homeland security and~~
11 ~~emergency management]~~ department of public safety;

12 B. "first responder" means a public safety employee
13 or volunteer whose duties include responding rapidly to an
14 emergency, including but not limited to:

15 (1) a law enforcement officer;

16 (2) a firefighter or certified volunteer
17 firefighter; and

18 (3) an emergency medical services provider;

19 C. "infrastructure equipment" means the underlying
20 fixed equipment required to establish interoperable
21 communications between radio systems used by local, state,
22 tribal and federal agencies and first responders; and

23 D. "interoperability" means coordination of
24 critical information communication systems or networks,
25 including radio and emergency coordination information

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1 equipment, that are consistently operable with all relevant
2 local, state, tribal and federal agencies and first
3 responders."

4 SECTION 17. Section 12-10D-3 NMSA 1978 (being Laws 2009,
5 Chapter 111, Section 3) is amended to read:

6 "12-10D-3. INTEROPERABILITY PLANNING COMMISSION--
7 CREATED.--

8 A. The "interoperability planning commission" is
9 created and administratively attached to the department.

10 B. The interoperability planning commission is a
11 permanent advisory commission created to advise and support the
12 department on emergency response and homeland security
13 activities relating to interoperability, the obtaining of
14 funding and the use of available funding.

15 C. The commission consists of [~~twelve~~] eleven
16 members, including:

17 (1) the lieutenant governor;

18 [~~(2) the homeland security advisor~~];

19 [~~(3)~~] (2) the secretary of information
20 technology or the secretary's designee;

21 [~~(4)~~] (3) the adjutant general or a
22 representative from the department of military affairs;

23 [~~(5)~~] (4) the secretary of energy, minerals
24 and natural resources or the secretary's designee;

25 [~~(6)~~] (5) the state fire marshal or the fire

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1 marshal's designee;

2 ~~[(7)]~~ (6) the secretary of Indian affairs or
3 the secretary's designee;

4 ~~[(8)]~~ (7) the secretary of transportation or
5 the secretary's designee;

6 ~~[(9)]~~ (8) the secretary of health or the
7 secretary's designee;

8 ~~[(10)]~~ (9) the secretary of public safety or
9 the secretary's designee;

10 ~~[(11)]~~ (10) the executive director of the New
11 Mexico municipal league or the executive director's designee;
12 and

13 ~~[(12)]~~ (11) the executive director of the New
14 Mexico association of counties or the executive director's
15 designee.

16 D. The commission shall appoint a chair and vice
17 chair from among its members. The commission shall meet at the
18 call of the chair but no less than two times each year.

19 E. Members of the commission, or their designees,
20 who are not supported by public money may be reimbursed for per
21 diem and mileage pursuant to the Per Diem and Mileage Act, but
22 shall not receive any other compensation, perquisite or
23 allowance."

24 SECTION 18. Section 12-12-19 NMSA 1978 (being Laws 1983,
25 Chapter 80, Section 3, as amended) is amended to read:

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1 "12-12-19. DEFINITIONS.--As used in the Hazardous
2 Materials Emergency Response Act:

3 A. "accident" means an event involving hazardous
4 materials that may cause injury to persons or damage to
5 property or release hazardous materials to the environment;

6 B. "administrator" means the hazardous materials
7 emergency response administrator;

8 C. "board" means the hazardous materials safety
9 board;

10 D. "chief" means the chief of the New Mexico state
11 police;

12 E. "commission" means the state emergency response
13 commission;

14 F. "department" means the [~~homeland security and~~
15 ~~emergency management~~] department of public safety;

16 G. "emergency management" means the ability to
17 prepare for, respond to, mitigate, recover and restore the
18 scene of an institutional, industrial, transportation or other
19 accident;

20 H. "first responder" means the first law
21 enforcement officer or other public service provider with a
22 radio-equipped vehicle to arrive at the scene of an accident;

23 I. "hazardous materials" means hazardous
24 substances, radioactive materials or a combination of hazardous
25 substances and radioactive materials;

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1 J. "hazardous substances" means flammable solids,
2 semisolids, liquids or gases; poisons; corrosives; explosives;
3 compressed gases; reactive or toxic chemicals; irritants; or
4 biological agents, but does not include radioactive materials;

5 K. "orphan hazardous materials" means hazardous
6 substances, radioactive materials, a combination of hazardous
7 substances and radioactive materials or substances used in the
8 manufacture of controlled substances in violation of the
9 Controlled Substances Act where an owner of the substances or
10 materials cannot be identified;

11 L. "plan" means the statewide hazardous materials
12 emergency response plan;

13 M. "radioactive materials" means any material or
14 combination of materials that spontaneously emits ionizing
15 radiation. Materials in which the estimated specific activity
16 is not greater than 0.002 microcuries per gram of material are
17 not considered to be radioactive materials unless determined to
18 be so by the [~~hazardous and radioactive materials bureau of the~~
19 ~~water and waste management division of the~~] department of
20 environment for purposes of emergency response pursuant to the
21 Hazardous Materials Emergency Response Act;

22 N. "responsible state agency" means an agency
23 designated in Subsection D of Section 12-12-21 NMSA 1978 with
24 responsibility for managing a certain type of accident or
25 performing certain functions at the scene of such accident; and

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1 0. "secretary" or "state director" means the [~~state~~
2 ~~director of homeland security and emergency management]~~
3 secretary of public safety."

4 SECTION 19. Section 12-12-21 NMSA 1978 (being Laws 1983,
5 Chapter 80, Section 5, as amended by Laws 2007, Chapter 290,
6 Section 11 and by Laws 2007, Chapter 291, Section 29) is
7 amended to read:

8 "12-12-21. STATE POLICE EMERGENCY RESPONSE OFFICER--
9 PROCEDURE FOR NOTIFICATION--COOPERATION OF OTHER STATE AGENCIES
10 AND LOCAL GOVERNMENTS.--

11 A. The [~~state director]~~ secretary, in addition to
12 having final authority to administer the provisions of the
13 Hazardous Materials Emergency Response Act, shall be
14 responsible for central coordination and communication in the
15 event of an accident.

16 B. The [~~chief]~~ secretary shall designate one or
17 more persons to be known as "state police emergency response
18 officers". A state police emergency response officer shall be
19 trained in accident evaluation and emergency response and shall
20 be available to answer an emergency response call from the
21 first responder.

22 C. In the event of an accident, if the first
23 responder is a law enforcement officer, the officer shall
24 immediately notify the state police district emergency response
25 officer in the officer's area, who shall in turn immediately

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1 notify the state police emergency response center. If the
2 first responder is a person with radio capability tied into the
3 radio communications protocol or reporting structure with the
4 department of information technology, the person shall
5 immediately notify Santa Fe control, [~~who~~] which shall in turn
6 immediately notify the state police emergency response center.
7 The state police emergency response center shall:

8 (1) evaluate and determine the scope of the
9 accident based on information provided by the first responder;

10 (2) instruct the first responder on how to
11 proceed at the accident scene;

12 (3) immediately notify the [~~state~~] director
13 and the appropriate responsible state agency and advise it of
14 the necessary response;

15 (4) notify the sheriff or chief of police in
16 whose jurisdiction the accident occurred; and

17 (5) coordinate field communications and summon
18 additional resources requested by the emergency management
19 team.

20 D. The responsible state agencies shall be:

21 (1) the New Mexico state police division of
22 the department of public safety for coordination, law
23 enforcement and traffic and crowd control;

24 (2) the department of environment for
25 assistance with accidents involving hazardous materials or

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1 hazardous substances;

2 (3) the state fire marshal's office for
3 assistance with any accident involving hazardous materials;

4 (4) the office of injury prevention [~~and~~
5 ~~emergency medical services bureau~~] of the public health
6 division of the department of health for assistance with
7 accidents involving casualties;

8 (5) the [~~homeland security and emergency~~
9 ~~management~~] department of public safety and the department of
10 military affairs for assistance with accidents that require the
11 evacuation of the vicinity of the accident or the use of the
12 national guard of New Mexico; and

13 (6) the department of transportation for
14 assistance with road closures, designating alternate routes and
15 related services.

16 E. Other state agencies and local governments shall
17 assist the responsible state agencies when requested to do so.

18 F. Any driver of a vehicle carrying hazardous
19 materials involved in an accident that may cause injury to
20 persons or property or any owner, shipper or carrier of
21 hazardous materials involved in an accident who has knowledge
22 of such accident or any owner or person in charge of any
23 building, premises or facility where such an accident occurs
24 shall immediately notify the New Mexico state police division
25 of the department of public safety by the quickest means of

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1 communication available."

2 SECTION 20. Section 12-12-23 NMSA 1978 (being Laws 1984,
3 Chapter 41, Section 6, as amended) is amended to read:

4 "12-12-23. HAZARDOUS MATERIALS EMERGENCY RESPONSE
5 ADMINISTRATOR--CREATED--DUTIES.--The position of "hazardous
6 materials emergency response administrator" is created within
7 the [~~homeland security and emergency management~~] department of of
8 public safety. The state director shall assign the
9 administrator's duties."

10 SECTION 21. Section 12-12A-1 NMSA 1978 (being Laws 2008,
11 Chapter 47, Section 1) is amended to read:

12 "12-12A-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article
13 12A NMSA 1978 may be cited as the "Uniform Emergency Volunteer
14 Health Practitioners Act".

15 SECTION 22. Section 12-12A-2 NMSA 1978 (being Laws 2008,
16 Chapter 47, Section 2) is amended to read:

17 "12-12A-2. DEFINITIONS.--As used in the Uniform Emergency
18 Volunteer Health Practitioners Act:

19 A. "disaster relief organization" means an entity
20 that provides emergency or disaster relief services that
21 include health or veterinary services provided by volunteer
22 health practitioners and that:

23 (1) is designated or recognized as a provider
24 of those services pursuant to a disaster response and recovery
25 plan adopted by an agency of the federal government or the

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1 ~~[homeland security and emergency management]~~ department of of
2 public safety; or

3 (2) regularly plans and conducts its
4 activities in coordination with an agency of the federal
5 government or the ~~[homeland security and emergency management~~
6 ~~department]~~ division;

7 B. "division" means the homeland security and
8 emergency management division of the department of public
9 safety;

10 ~~[B-]~~ C. "emergency" means an event or condition
11 that is an emergency, disaster, public health emergency or
12 similar event or condition pursuant to the laws of this state;

13 ~~[G-]~~ D. "emergency declaration" means a declaration
14 of emergency issued by a person authorized to do so pursuant to
15 the laws of this state;

16 ~~[D-]~~ E. "Emergency Management Assistance Compact"
17 means the interstate compact approved by congress by Public Law
18 No. 104-321, 110 Stat. 3877 and codified at Sections 12-10-14
19 and 12-10-15 NMSA 1978;

20 ~~[E-]~~ F. "entity" means a person other than an
21 individual;

22 ~~[F-]~~ G. "health facility" means an entity licensed
23 pursuant to the laws of this or another state to provide health
24 or veterinary services;

25 ~~[G-]~~ H. "health practitioner" means an individual

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1 licensed pursuant to the laws of this or another state to
2 provide health or veterinary services;

3 ~~[H.]~~ I. "health services" means the provision of
4 treatment, care, advice or guidance, or other services or
5 supplies, related to the health or death of individuals or
6 human populations, to the extent necessary to respond to an
7 emergency, including:

8 (1) the following, concerning the physical or
9 mental condition or functional status of an individual or
10 affecting the structure or function of the body:

11 (a) preventive, diagnostic, therapeutic,
12 rehabilitative, maintenance or palliative care; and

13 (b) counseling, assessment, procedures
14 or other services;

15 (2) the sale or dispensing of a drug, a
16 device, equipment or another item to an individual in
17 accordance with a prescription; and

18 (3) funeral, cremation, cemetery or other
19 mortuary services;

20 ~~[I.]~~ J. "host entity" means an entity operating in
21 this state that uses volunteer health practitioners to respond
22 to an emergency;

23 ~~[J.]~~ K. "license" means authorization by a state to
24 engage in health or veterinary services that are unlawful
25 without the authorization. "License" includes authorization

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1 pursuant to the laws of this state to an individual to provide
2 health or veterinary services based upon a national
3 certification issued by a public or private entity;

4 ~~[K.]~~ L. "person" means an individual, corporation,
5 business trust, trust, partnership, limited liability company,
6 association, joint venture, public corporation, government or
7 governmental subdivision, agency or instrumentality or any
8 other legal or commercial entity;

9 ~~[H.]~~ M. "scope of practice" means the extent of the
10 authorization to provide health or veterinary services granted
11 to a health practitioner by a license issued to the
12 practitioner in the state in which the principal part of the
13 practitioner's services are rendered, including any conditions
14 imposed by the licensing authority;

15 ~~[M.]~~ N. "state" means a state of the United States,
16 the District of Columbia, Puerto Rico, the United States Virgin
17 Islands or any territory or insular possession subject to the
18 jurisdiction of the United States;

19 ~~[N.]~~ O. "veterinary services" means the provision
20 of treatment, care, advice or guidance, or other services or
21 supplies, related to the health or death of an animal or to
22 animal populations, to the extent necessary to respond to an
23 emergency, including:

24 (1) the diagnosis, treatment or prevention of
25 an animal disease, injury or other physical or mental condition

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1 by the prescription, administration or dispensing of a vaccine,
2 medicine, surgery or therapy;

3 (2) the use of a procedure for reproductive
4 management; and

5 (3) the monitoring and treatment of animal
6 populations for diseases that have spread or demonstrate the
7 potential to spread to humans; and

8 [θ-] P. "volunteer health practitioner" means a
9 health practitioner who provides health or veterinary services,
10 whether or not the practitioner receives compensation for those
11 services. "Volunteer health practitioner" does not include a
12 practitioner who receives compensation pursuant to a
13 preexisting employment relationship with a host entity or
14 affiliate that requires the practitioner to provide health
15 services in this state, unless the practitioner is not a
16 resident of this state and is employed by a disaster relief
17 organization providing services in this state while an
18 emergency declaration is in effect."

19 **SECTION 23.** Section 12-12A-4 NMSA 1978 (being Laws 2008,
20 Chapter 47, Section 4) is amended to read:

21 "12-12A-4. REGULATION OF SERVICES DURING EMERGENCY.--

22 A. While an emergency declaration is in effect, the
23 [~~homeland security and emergency management department~~]
24 division may limit, restrict or otherwise regulate:

25 (1) the duration of practice by volunteer

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1 health practitioners;

2 (2) the geographical areas in which volunteer
3 health practitioners may practice;

4 (3) the types of volunteer health
5 practitioners who may practice; and

6 (4) any other matters necessary to coordinate
7 effectively the provision of health or veterinary services
8 during the emergency.

9 B. An order issued pursuant to Subsection A of this
10 section may take effect immediately, without prior notice or
11 comment.

12 C. A host entity that uses volunteer health
13 practitioners to provide health or veterinary services in this
14 state shall:

15 (1) consult and coordinate its activities with
16 the [~~homeland security and emergency management department~~]
17 division to the extent practicable to provide for the efficient
18 and effective use of volunteer health practitioners; and

19 (2) comply with any laws other than the
20 Uniform Emergency Volunteer Health Practitioners Act relating
21 to the management of emergency health or veterinary services,
22 including the Emergency Medical Services Act and the All Hazard
23 Emergency Management Act."

24 SECTION 24. Section 12-12A-5 NMSA 1978 (being Laws 2008,
25 Chapter 47, Section 5) is amended to read:

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1 "12-12A-5. VOLUNTEER HEALTH PRACTITIONER REGISTRATION
2 SYSTEMS.--

3 A. To qualify as a volunteer health practitioner
4 registration system, a system shall:

5 (1) accept applications for the registration
6 of volunteer health practitioners before or during an
7 emergency;

8 (2) include information about the licensure
9 and good standing of health practitioners that is accessible by
10 authorized persons;

11 (3) be capable of confirming the accuracy of
12 information concerning whether a health practitioner is
13 licensed and in good standing before health services or
14 veterinary services are provided pursuant to the Uniform
15 Emergency Volunteer Health Practitioners Act; and

16 (4) meet one of the following conditions:

17 (a) be an emergency system for advance
18 registration of volunteer health care practitioners established
19 by a state and funded through the health resources services
20 administration pursuant to Section 319I of the federal Public
21 Health Service Act, 42 U.S.C. Section 247d-7b, as amended;

22 (b) be a local unit consisting of
23 trained and equipped emergency response, public health and
24 medical personnel formed pursuant to Section 2801 of the Public
25 Health Service Act, 42 U.S.C. Section 300hh, as amended;

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1 (c) be operated by a: 1) disaster
2 relief organization; 2) licensing board; 3) national or
3 regional association of licensing boards or health
4 practitioners; 4) health facility that provides comprehensive
5 inpatient and outpatient health care services, including a
6 tertiary care and teaching hospital; or 5) governmental entity;
7 or

8 (d) be designated by the [~~homeland~~
9 ~~security and emergency management department~~] division as a
10 registration system for purposes of the Uniform Emergency
11 Volunteer Health Practitioners Act.

12 B. While an emergency declaration is in effect, the
13 [~~homeland security and emergency management department~~]
14 division, a person authorized to act on behalf of the [~~homeland~~
15 ~~security and emergency management department~~] division or a
16 host entity may confirm whether volunteer health practitioners
17 used in this state are registered with a registration system
18 that complies with Subsection A of this section. Confirmation
19 is limited to obtaining identities of the volunteer health
20 practitioners from the system and determining whether the
21 system indicates that the volunteer health practitioners are
22 licensed and in good standing.

23 C. Upon request of a person in this state
24 authorized pursuant to Subsection B of this section or a
25 similarly authorized person in another state, a registration

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1 system located in this state shall notify the person of the
2 identities of volunteer health practitioners and whether the
3 volunteer health practitioners are licensed and in good
4 standing.

5 D. A host entity is not required to use the
6 services of a volunteer health practitioner even if the
7 volunteer health practitioner is registered with a registration
8 system that indicates that the volunteer health practitioner is
9 licensed and in good standing."

10 SECTION 25. Section 12-12A-8 NMSA 1978 (being Laws 2008,
11 Chapter 47, Section 8) is amended to read:

12 "12-12A-8. PROVISION OF VOLUNTEER HEALTH OR VETERINARY
13 SERVICES--ADMINISTRATIVE SANCTIONS.--

14 A. Subject to Subsections B and C of this section,
15 a volunteer health practitioner shall adhere to the scope of
16 practice for a similarly licensed practitioner established by
17 the licensing provisions, practice acts or other laws of this
18 state.

19 B. Except as otherwise provided in Subsection C of
20 this section, the Uniform Emergency Volunteer Health
21 Practitioners Act does not authorize a volunteer health
22 practitioner to provide services that are outside the volunteer
23 health practitioner's scope of practice, even if a similarly
24 licensed practitioner in this state would be permitted to
25 provide the services.

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1 C. The [~~homeland security and emergency management~~
2 ~~department~~] division may modify or restrict the health or
3 veterinary services that volunteer health practitioners may
4 provide pursuant to the Uniform Emergency Volunteer Health
5 Practitioners Act. An order pursuant to this subsection may
6 take effect immediately, without prior notice or comment.

7 D. A host entity may restrict the health or
8 veterinary services that a volunteer health practitioner may
9 provide pursuant to the Uniform Emergency Volunteer Health
10 Practitioners Act.

11 E. A volunteer health practitioner [~~does not~~
12 ~~engage~~] shall not be considered to be engaged in unauthorized
13 practice unless the volunteer health practitioner has reason to
14 know of any limitation, modification or restriction pursuant to
15 the provisions of this section or that a similarly licensed
16 practitioner in this state would not be permitted to provide
17 the services. A volunteer health practitioner has reason to
18 know of a limitation, modification or restriction or that a
19 similarly licensed practitioner in this state would not be
20 permitted to provide a service if:

21 (1) the volunteer health practitioner knows
22 that the limitation, modification or restriction exists or that
23 a similarly licensed practitioner in this state would not be
24 permitted to provide the service; or

25 (2) from all the facts and circumstances known

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1 to the volunteer health practitioner at the relevant time, a
2 reasonable person would conclude that the limitation,
3 modification or restriction exists or that a similarly licensed
4 practitioner in this state would not be permitted to provide
5 the service.

6 F. In addition to the authority granted by law of
7 this state other than the Uniform Emergency Volunteer Health
8 Practitioners Act to regulate the conduct of health
9 practitioners, a licensing board or other disciplinary
10 authority in this state:

11 (1) may impose administrative sanctions upon a
12 health practitioner licensed in this state for conduct outside
13 of this state in response to an out-of-state emergency;

14 (2) may impose administrative sanctions upon a
15 health practitioner not licensed in this state for conduct in
16 this state in response to an in-state emergency; and

17 (3) shall report any administrative sanctions
18 imposed upon a health practitioner licensed in another state to
19 the appropriate licensing board or other disciplinary authority
20 in any other state in which the practitioner is known to be
21 licensed.

22 G. In determining whether to impose administrative
23 sanctions pursuant to Subsection F of this section, a licensing
24 board or other disciplinary authority shall consider the
25 circumstances in which the conduct took place, including any

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1 exigent circumstances, and the health practitioner's scope of
2 practice, education, training, experience and specialized
3 skill."

4 SECTION 26. Section 12-12A-10 NMSA 1978 (being Laws 2008,
5 Chapter 47, Section 10) is amended to read:

6 "12-12A-10. REGULATORY AUTHORITY.--The [~~homeland security~~
7 ~~and emergency management department~~] division may promulgate
8 rules to implement the Uniform Emergency Volunteer Health
9 Practitioners Act. In doing so, the [~~homeland security and~~
10 ~~emergency management department~~] division shall consult with
11 and consider the recommendations of the entity established to
12 coordinate the implementation of the Emergency Management
13 Assistance Compact and shall also consult with and consider
14 rules promulgated by similarly empowered agencies in other
15 states to promote uniformity of application of the Uniform
16 Emergency Volunteer Health Practitioners Act and make the
17 emergency response systems in the various states reasonably
18 compatible."

19 SECTION 27. Section 15-8-6 NMSA 1978 (being Laws 1994,
20 Chapter 119, Section 6, as amended by Laws 2009, Chapter 8,
21 Section 1 and by Laws 2009, Chapter 129, Section 1 and also by
22 Laws 2009, Chapter 250, Section 6) is amended to read:

23 "15-8-6. STATE VEHICLES--USE--MARKINGS--STATE GOVERNMENT
24 PLATES.--

25 A. The division shall adopt rules governing the use

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1 of vehicles used by state agencies or by other persons pursuant
2 to Subsection G of this section, including driver requirements
3 and responsibilities, under what circumstances someone can be
4 assigned a state vehicle on a permanent or semipermanent basis
5 and when custody of a state vehicle can be vested in another
6 state agency.

7 B. The division may determine that it is
8 impractical to retain custody of certain state vehicles, and it
9 may provide that custody reside in another state agency in the
10 following cases:

11 (1) the state vehicle is used for emergency or
12 law enforcement purposes; or

13 (2) the state vehicle is a department of
14 transportation, energy, minerals and natural resources
15 department or department of game and fish [~~or homeland security~~
16 ~~and emergency management department~~] passenger vehicle, truck
17 or tractor or heavy road equipment.

18 C. Except as provided in Subsections E and F of
19 this section, all state vehicles shall be marked as state
20 vehicles. Each side of the vehicle shall be marked, in letters
21 not less than two inches in height, with the following
22 designation of ownership: "State of New Mexico,.....
23 Department" or "State of New Mexico Department of"
24 and naming the department using the vehicle.

25 D. Except as provided in Subsections E and F of

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1 this section, all state vehicles shall have specially designed
2 government registration plates.

3 E. Only state vehicles used for legitimate
4 undercover law enforcement purposes are exempt from the
5 requirements of Subsections C and D of this section. All other
6 state vehicles owned or in the custody of state agencies that
7 have law enforcement functions shall be marked and have state
8 government registration plates.

9 F. A state agency may seek custody of state
10 vehicles as an exception to Subsection B of this section or an
11 exemption to the provisions of Subsection C of this section by
12 making a written request to the director, specifying the
13 reasons for the proposed custody or exemption. The director
14 may approve the custody or exemption, in writing, indicating
15 the duration and any conditions of the custody or exemption.

16 G. The division shall adopt rules permitting
17 individuals enrolled in the state's adaptive driving program to
18 use special-use state vehicles for evaluation and training
19 purposes in that program."

20 SECTION 28. Section 74-4E-3 NMSA 1978 (being Laws 1989,
21 Chapter 149, Section 3, as amended) is amended to read:

22 "74-4E-3. DEFINITIONS.--As used in the Hazardous
23 Chemicals Information Act:

24 A. "commission" means the state emergency response
25 commission;

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1 B. "department" or "division" means the homeland
2 security and emergency management division of the department of
3 public safety;

4 C. "emergency responder" means any law enforcement
5 officer, firefighter, medical services professional or other
6 person trained and equipped to respond to hazardous chemical
7 releases;

8 D. "hazardous chemical" means any hazardous
9 chemical, extremely hazardous substance, toxic chemical or
10 hazardous material as defined by Title 3;

11 E. "facility owner or operator" means any
12 individual, trust, firm, joint stock company, corporation,
13 partnership, association, state agency, municipality or county
14 having legal control or authority over buildings, equipment,
15 structures and other stationary items that are located on a
16 single site or on contiguous or adjacent sites. For the
17 purposes of Section 74-4E-5 NMSA 1978, the term includes owners
18 or operators of motor vehicles, rolling stock and aircraft;

19 F. "local emergency planning committee" means any
20 local group appointed by the commission to undertake chemical
21 release contingency planning;

22 G. "release" means any spilling, leaking, pumping,
23 pouring, emitting, emptying, discharging, injecting, escaping,
24 leaching, dumping or disposing into the environment of any
25 hazardous chemical, extremely hazardous substance or toxic

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1 chemical. "Release" includes the abandonment or discarding of
2 barrels, containers and other closed receptacles; and

3 H. "Title 3" means the federal Emergency Planning
4 and Community Right-to-Know Act of 1986."

5 SECTION 29. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
6 APPROPRIATIONS AND PROPERTY--CONTRACTUAL OBLIGATIONS--STATUTORY
7 REFERENCES.--

8 A. All functions, personnel, appropriations, money,
9 records, furniture, equipment and other property of the
10 homeland security and emergency management department are
11 transferred to the department of public safety.

12 B. Contractual obligations of the homeland security
13 and emergency management department are binding on the
14 department of public safety.

15 C. All references in the law to the homeland
16 security and emergency management department shall be deemed to
17 be references to the homeland security and emergency management
18 division of the department of public safety. All references in
19 the law to the state director of homeland security and
20 emergency management or to the secretary of homeland security
21 and emergency management shall be deemed to be references to
22 the director of the homeland security and emergency management
23 division of the department of public safety or to the secretary
24 of public safety.

25 SECTION 30. REPEAL.--Sections 9-28-1 through 9-28-7 NMSA

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1 1978 (being Laws 2007, Chapter 291, Sections 1 through 6 and
2 35, as amended) are repealed.

3 SECTION 31. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect immediately.