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SENATE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO EXECUTIVE REORGANIZATION; ENACTING THE VOCATIONAL REHABILITATION ACT; CREATING THE VOCATIONAL REHABILITATION COMMISSION; ELIMINATING THE VOCATIONAL REHABILITATION DIVISION OF THE PUBLIC EDUCATION DEPARTMENT; CREATING THE VOCATIONAL REHABILITATION OFFICE; PROVIDING POWERS AND DUTIES; PROVIDING FOR THE TRANSFER OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, RECORDS AND OTHER PROPERTY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 12 of this act may be cited as the "Vocational Rehabilitation Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Vocational Rehabilitation Act:

A. "commission" means the vocational rehabilitation

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1 commission;

2 B. "director" means the director of the vocational
3 rehabilitation office;

4 C. "federal aid funds" means funds or grants
5 received by the state under any federal aid for vocational
6 rehabilitation;

7 D. "office" means the vocational rehabilitation
8 office;

9 E. "person with a disability" means a person with a
10 physical or mental disability other than blindness that
11 constitutes a substantial handicap to employment but that is of
12 such a nature that vocational rehabilitation may be reasonably
13 expected to enable the person to engage in a remunerative
14 occupation; and

15 F. "vocational rehabilitation" means services or
16 training necessary to enable a person with a disability to
17 engage in a remunerative occupation. Vocational rehabilitation
18 may provide medical or vocational diagnosis, vocational
19 guidance, counseling and placement, rehabilitation training,
20 physical restoration, transportation, occupational licenses,
21 customary occupational tools or equipment, maintenance and
22 training material and equipment.

23 SECTION 3. [NEW MATERIAL] VOCATIONAL REHABILITATION
24 COMMISSION CREATED.--

25 A. The "vocational rehabilitation commission" is
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1 created. The commission consists of six members appointed by
2 the governor:

3 (1) two members shall be licensed health care
4 providers of disabilities treatment;

5 (2) two members shall be recipients of
6 vocational rehabilitation services;

7 (3) one member shall be the director of the
8 medical assistance division of the human services department;
9 and

10 (4) one member shall be a person with
11 expertise in vocational education.

12 B. Initially, two members shall be appointed for a
13 two-year term by July 1, 2022. Three members shall be
14 appointed for a three-year term and one member appointed for a
15 four-year term. Thereafter, appointments shall be for four-
16 year terms on December 31 of even-numbered years.

17 C. A majority of the members of the commission
18 constitutes a quorum for the transaction of business. The
19 commission shall elect a chair from its membership.

20 D. Public members of the commission are entitled to
21 receive per diem and mileage as provided in the Per Diem and
22 Mileage Act and shall receive no other compensation, perquisite
23 or allowance.

24 SECTION 4. [NEW MATERIAL] VOCATIONAL REHABILITATION
25 COMMISSION--POWERS AND DUTIES.--

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1 A. The commission may:

2 (1) establish policies for state programs
3 relating to vocational rehabilitation, unless otherwise
4 provided by state law;

5 (2) cooperate and make agreements with public
6 or private agencies to establish or maintain a vocational
7 rehabilitation program;

8 (3) enter into reciprocal agreements with
9 other states to provide vocational rehabilitation; and

10 (4) accept gifts or grants to be used for
11 vocational rehabilitation.

12 B. The commission shall:

13 (1) create a state plan for federal aid funds
14 relating to vocational rehabilitation;

15 (2) establish standards to which agencies
16 shall conform in receiving federal aid funds;

17 (3) enter into an agreement with the
18 appropriate federal agency to procure for the state the
19 benefits of federal law regarding vocational rehabilitation;

20 (4) collaborate with the federal social
21 security administration to provide disability determination
22 services pursuant to federal law; and

23 (5) determine eligibility for state disability
24 services pursuant to federal law, the Vocational Rehabilitation
25 Act and rules promulgated under the Vocational Rehabilitation

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1 Act.

2 SECTION 5. [NEW MATERIAL] VOCATIONAL REHABILITATION
3 OFFICE--POWERS AND DUTIES.--

4 A. The "vocational rehabilitation office" is
5 created. The commission shall appoint a director, who shall be
6 the administrative officer of the commission. The director
7 shall be appointed without reference to party affiliation and
8 solely based on the grounds of fitness to perform the duties of
9 the director's office. The director shall employ staff
10 necessary for the effective operation of the commission.

11 B. The office may:

12 (1) promulgate and enforce rules for the
13 administration of the Vocational Rehabilitation Act and state
14 laws relating to vocational rehabilitation;

15 (2) conduct research and compile statistics
16 relating to vocational rehabilitation;

17 (3) make surveys and studies in cooperation
18 with other agencies to determine the needs of the state in the
19 areas where federal aid funds are to be applied; and

20 (4) give technical advice and assistance to
21 any state or local agency in connection with that agency
22 obtaining federal aid funds.

23 C. The office shall:

24 (1) administer vocational rehabilitation
25 services;

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1 (2) administer the state plan created by the
2 commission;

3 (3) ensure that behavioral health services,
4 including mental health and substance abuse services, are
5 provided, contracted for or approved in compliance with the
6 requirements of Section 9-7-6.4 NMSA 1978;

7 (4) provide for reports to be made to the
8 federal agency as required; and

9 (5) provide for reports to be made to the
10 commission from a person receiving federal aid funds.

11 SECTION 6. [NEW MATERIAL] DESIGNATED AGENCY FOR FEDERAL
12 FUNDS--CUSTODY OF FUNDS--BUDGETS--DISBURSEMENTS.--

13 A. The office is designated the sole state agency
14 to administer and receive federal aid funds.

15 B. The state treasurer shall be the custodian of
16 all federal aid funds.

17 C. All state funds, federal aid funds or grants to
18 the state relating to vocational rehabilitation shall be
19 budgeted and accounted for as provided by law. These funds or
20 grants shall be disbursed by warrants of the secretary of
21 finance and administration on vouchers issued by the director
22 or the director's authorized representative.

23 D. All federal aid funds received by the state to
24 be used for vocational rehabilitation programs may be expended
25 in any succeeding year from the year received.

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1 SECTION 7. ~~[NEW MATERIAL]~~ VOCATIONAL REHABILITATION--
2 ELIGIBILITY REQUIREMENTS.--Vocational rehabilitation shall be
3 provided to a person who:

4 A. is a resident of the state at the time of filing
5 an application for vocational rehabilitation; and

6 B. is eligible for a vocational rehabilitation
7 program; or

8 C. qualifies for eligibility under the terms of an
9 agreement that the state has with the federal government or
10 with another state.

11 SECTION 8. ~~[NEW MATERIAL]~~ HEARING.--A fair hearing shall
12 be provided for a person applying for or receiving vocational
13 rehabilitation who is aggrieved by an action or inaction of the
14 commission or office pursuant to the Administrative Procedures
15 Act.

16 SECTION 9. ~~[NEW MATERIAL]~~ THIRD-PARTY LIABILITY.--

17 A. The office shall make reasonable efforts to
18 ascertain any legal liability of third parties that are or may
19 be liable to pay all or part of the cost of rehabilitation
20 services of an applicant or client of vocational
21 rehabilitation.

22 B. When the office provides vocational
23 rehabilitation services to a qualified person, the office is
24 subrogated to any right of the individual against a third party
25 for recovery of costs incurred.

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1 SECTION 10. [NEW MATERIAL] NONTRANSFERABLE OR ASSIGNABLE
2 RIGHTS.--The rights of a person pursuant to state law relating
3 to vocational rehabilitation are not transferable or assignable
4 in law or in equity.

5 SECTION 11. [NEW MATERIAL] LIMITATIONS ON POLITICAL
6 ACTIVITIES.--

7 A. A vocational rehabilitation provider shall not:

8 (1) engage in administering a vocational
9 rehabilitation program or use the person's official authority
10 or influence to interfere with any public election or partisan
11 political campaign;

12 (2) take an active part in the management of a
13 political campaign or participate in any political activity
14 beyond the person's constitutional rights of voting and of free
15 speech; or

16 (3) be required to contribute or render
17 service, assistance, subscription, assessment or contribution
18 for any political purpose.

19 B. A person that violates the provisions of this
20 section shall be subject to discharge or suspension.

21 SECTION 12. [NEW MATERIAL] ADMISSION TO STATE EDUCATIONAL
22 INSTITUTIONS--EXEMPTION FROM CERTAIN FEES.--Upon written
23 request of the commission, all state educational institutions
24 shall accept for admission, without any charge for any fees
25 except tuition charges, a person with a disability meeting the

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1 standards of the institution.

2 SECTION 13. Section 9-7-6.4 NMSA 1978 (being Laws 2004,
3 Chapter 46, Section 8, as amended) is amended to read:

4 "9-7-6.4. INTERAGENCY BEHAVIORAL HEALTH PURCHASING
5 COLLABORATIVE.--

6 A. [~~There is created~~] The "interagency behavioral
7 health purchasing collaborative" is created, consisting of the
8 secretaries of aging and long-term services; Indian affairs;
9 human services; health; corrections; children, youth and
10 families; finance and administration; workforce solutions;
11 public education; and transportation; the directors of the
12 administrative office of the courts; the New Mexico mortgage
13 finance authority; the governor's commission on disability; the
14 developmental disabilities [~~planning~~] council; the
15 instructional support and vocational [~~rehabilitation~~] education
16 division of the public education department; and the New Mexico
17 health policy commission; and the governor's health policy
18 coordinator, or their designees. The collaborative shall be
19 chaired by the secretary of human services with the respective
20 secretaries of health and children, youth and families
21 alternating annually as co-chairs.

22 B. The collaborative shall meet regularly and at
23 the call of either co-chair and shall:

24 (1) identify behavioral health needs
25 statewide, with an emphasis on that hiatus between needs and

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1 services set forth in the department of health's gap analysis
2 and in ongoing needs assessments, and develop a master plan for
3 statewide delivery of services;

4 (2) give special attention to regional
5 differences, including cultural, rural, frontier, urban and
6 border issues;

7 (3) inventory all expenditures for behavioral
8 health, including mental health and substance abuse;

9 (4) plan, design and direct a statewide
10 behavioral health system, ensuring both availability of
11 services and efficient use of all behavioral health funding,
12 taking into consideration funding appropriated to specific
13 affected departments; and

14 (5) contract for operation of one or more
15 behavioral health entities to ensure availability of services
16 throughout the state.

17 C. The plan for delivery of behavioral health
18 services shall include specific service plans to address the
19 needs of infants, children, adolescents, adults and seniors, as
20 well as to address workforce development and retention and
21 quality improvement issues. The plan shall be revised every
22 two years and shall be adopted by the department of health as
23 part of the statewide health plan.

24 D. The plan shall take the following principles
25 into consideration, to the extent practicable and within

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1 available resources:

2 (1) services should be individually centered
3 and family-focused based on principles of individual capacity
4 for recovery and resiliency;

5 (2) services should be delivered in a
6 culturally responsive manner in a home- or community-based
7 setting, where possible;

8 (3) services should be delivered in the least
9 restrictive and most appropriate manner;

10 (4) individualized service planning and case
11 management should take into consideration individual and family
12 circumstances, abilities and strengths and be accomplished in
13 consultation with appropriate family members, caregivers and
14 other persons critical to the individual's life and well-being;

15 (5) services should be coordinated,
16 accessible, accountable and of high quality;

17 (6) services should be directed by the
18 individual or family served to the extent possible;

19 (7) services may be consumer- or family-
20 provided, as defined by the collaborative;

21 (8) services should include behavioral health
22 promotion, prevention, early intervention, treatment and
23 community support; and

24 (9) services should consider regional
25 differences, including cultural, rural, frontier, urban and

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1 border issues.

2 E. The collaborative shall seek and consider
3 suggestions of Native American representatives from Indian
4 nations, tribes and pueblos and the urban Indian population,
5 located wholly or partially within New Mexico, in the
6 development of the plan for delivery of behavioral health
7 services.

8 F. Pursuant to the State Rules Act, the
9 collaborative shall adopt rules through the human services
10 department for:

11 (1) standards of delivery for behavioral
12 health services provided through contracted behavioral health
13 entities, including:

14 (a) quality management and improvement;

15 (b) performance measures;

16 (c) accessibility and availability of
17 services;

18 (d) utilization management;

19 (e) credentialing of providers;

20 (f) rights and responsibilities of
21 consumers and providers;

22 (g) clinical evaluation and treatment
23 and supporting documentation; and

24 (h) confidentiality of consumer records;

25 and

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1 (2) approval of contracts and contract
2 amendments by the collaborative, including public notice of the
3 proposed final contract.

4 G. The collaborative shall, through the human
5 services department, submit a separately identifiable
6 consolidated behavioral health budget request. The
7 consolidated behavioral health budget request shall account for
8 requested funding for the behavioral health services program at
9 the human services department and any other requested funding
10 for behavioral health services from agencies identified in
11 Subsection A of this section that will be used pursuant to
12 Paragraph (5) of Subsection B of this section. Any contract
13 proposed, negotiated or entered into by the collaborative is
14 subject to the provisions of the Procurement Code.

15 H. The collaborative shall, with the consent of the
16 governor, appoint a "director of the collaborative". The
17 director is responsible for the coordination of day-to-day
18 activities of the collaborative, including the coordination of
19 staff from the collaborative member agencies.

20 I. The collaborative shall provide a quarterly
21 report to the legislative finance committee on performance
22 outcome measures. The collaborative shall submit an annual
23 report to the legislative finance committee and the interim
24 legislative health and human services committee that provides
25 information on:

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- 1 (1) the collaborative's progress toward
- 2 achieving its strategic plans and goals;
- 3 (2) the collaborative's performance
- 4 information, including contractors and providers; and
- 5 (3) the number of people receiving services,
- 6 the most frequently treated diagnoses, expenditures by type of
- 7 service and other aggregate claims data relating to services
- 8 rendered and program operations."

9 SECTION 14. Section 9-24-4 NMSA 1978 (being Laws 2004,
10 Chapter 27, Section 4, as amended) is amended to read:

11 "9-24-4. DEPARTMENT CREATED.--

12 A. The "public education department" is created in
13 the executive branch. The department is a cabinet department
14 and includes the following divisions:

- 15 (1) the administrative services division;
- 16 (2) the assessment and accountability
- 17 division;
- 18 (3) the charter schools division;
- 19 (4) the educator quality division;
- 20 (5) the Indian education division;
- 21 (6) the information technology division;
- 22 (7) the instructional support and vocational
- 23 education division;
- 24 (8) the program support and student
- 25 transportation division;

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1 (9) the quality assurance and systems
2 integration division; and

3 (10) the rural education division [~~and~~
4 ~~(11) the vocational rehabilitation division~~].

5 B. The secretary may organize the department and
6 divisions of the department and may transfer or merge functions
7 between divisions and bureaus in the interest of efficiency and
8 economy."

9 SECTION 15. Section 13-1C-3 NMSA 1978 (being Laws 2005,
10 Chapter 334, Section 3) is amended to read:

11 "13-1C-3. DEFINITIONS.--As used in the State Use Act:

12 A. "central nonprofit agency" means a nonprofit
13 agency approved pursuant to rules of the council to facilitate
14 the equitable distribution of orders for the services of:

15 (1) qualified individuals; and

16 (2) community rehabilitation programs;

17 B. "community rehabilitation program" means a
18 nonprofit entity:

19 (1) that is organized under the laws of the
20 United States or this state, operated in the interest of
21 persons with disabilities and operated so that no part of the
22 income of which inures to the benefit of any shareholder or
23 other person;

24 (2) that complies with applicable occupational
25 health and safety standards as required by federal or state

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1 law; and

2 (3) that, in the provision of services,
3 whether or not procured under the State Use Act, employs during
4 the state fiscal year at least seventy-five percent persons
5 with disabilities in direct labor for the provision of
6 services;

7 C. "council" means the New Mexico council for
8 purchasing from persons with disabilities;

9 D. "direct labor" means all work directly relating
10 to the provision of services, but not work required for or
11 relating to supervision, administration or inspection;

12 E. "local public body" means a political
13 subdivision of the state and the political subdivision's
14 agencies, instrumentalities and institutions;

15 F. "persons with disabilities" means persons who
16 have a mental or physical impairment that constitutes or
17 results in a substantial impediment to employment as defined by
18 the federal Rehabilitation Act of 1973;

19 G. "qualified individual" means a person with a
20 disability who is a business owner, or a business that is
21 primarily owned and operated by persons with disabilities that
22 employs at least seventy-five percent persons with disabilities
23 in the provision of direct labor, which has been approved by
24 the council to provide services to state agencies and local
25 public bodies. A person who is receiving services pursuant to

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1 an individualized plan of employment from the vocational
2 rehabilitation [~~division of the public education department~~]
3 office or from the commission for the blind shall be presumed
4 to be a person with disability, as shall a person who is
5 receiving supplemental security income or social security
6 benefits based on disability;

7 H. "state agency" means a department, commission,
8 council, board, committee, institution, legislative body,
9 agency, government corporation, educational institution or
10 official of the executive, legislative or judicial branch of
11 government of this state; and

12 I. "state purchasing agent" means the director of
13 the purchasing division of the general services department."

14 SECTION 16. Section 21-6-2 NMSA 1978 (being Laws 1899,
15 Chapter 42, Section 3, as amended) is amended to read:

16 "21-6-2. PURPOSES--ADMISSION AGE--ADMISSION OF
17 NONRESIDENTS--TUITION--CHANGE OF NAME--EXPENDITURES FOR
18 GRADUATES IN COLLEGE--AUDIOLOGICAL CLINIC--SCHOLARSHIPS--
19 PRESIDENT'S POWERS.--

20 A. Except as otherwise provided in this section,
21 the New Mexico school for the deaf shall be devoted exclusively
22 to the care and instruction of persons of either sex who are
23 residents within the state and between the ages of five years
24 and the age of majority and who are deaf or hard-of-hearing;
25 provided that the board of regents, in its discretion, may

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1 admit residents of this state who have attained the age of one
2 year for daytime care and instruction, but not for residential
3 purposes, and may also admit residents of this state who are
4 over the age of majority.

5 B. The board of regents may make expenditures for
6 undergraduate collegiate expenses of graduates of the New
7 Mexico school for the deaf. The board of regents may permit
8 the use of facilities of the school by public and private
9 agencies in the state in carrying on a conservation-of-hearing
10 program when the agencies participate in the cost of the
11 operation, upon such terms and conditions as the board of
12 regents may prescribe.

13 C. The board of regents may contract with the
14 veterans' administration and the vocational rehabilitation
15 [~~division of the public education department~~] office to
16 provide instruction for adults with a disability in vocations
17 or lip reading taught at the school, but such adults may not
18 be housed at the school. The board of regents may lease for
19 a nominal sum for periods not to exceed three months to the
20 public schools, institutions and agencies of the state any
21 hearing test equipment owned by the school.

22 D. The board of regents, for the purpose of
23 creating a source of teachers of the deaf, may pay tuition
24 and other necessary expenses of graduates of New Mexico
25 colleges desiring to take training to teach the deaf in

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1 out-of-state training centers and intending to make the
2 teaching of the deaf in New Mexico their profession.

3 E. All instruction shall be free. Deaf or
4 hard-of-hearing children from other states or territories may
5 be received and educated in the school under such rules and
6 regulations as the board of regents may prescribe, but in no
7 event shall such children be admitted except upon the payment
8 or guaranty of at least one thousand dollars (\$1,000) for the
9 school year, on the basis of nine months for a school year.
10 The president of the board of regents is authorized to make
11 and enter into on behalf of the school all necessary
12 agreements and contracts with the United States government
13 and the proper authorities of other states and territories
14 for the reception and education of such children, and the
15 president is further authorized to receive and receipt for
16 all money paid upon such account and to endorse and transfer
17 all checks, vouchers or other evidences of payment made or
18 received in behalf of the school."

19 SECTION 17. Section 22-14-1 NMSA 1978 (being Laws
20 1967, Chapter 16, Section 191, as amended) is amended to
21 read:

22 "22-14-1. DEFINITIONS.--As used in Sections 22-14-2
23 through 22-14-16 NMSA 1978:

24 A. "vocational education" means vocational or
25 technical training or retraining conducted as part of a

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1 program designed to enable an individual to engage in a
2 remunerative occupation. Vocational education may provide
3 but is not limited to guidance and counseling, vocational
4 instruction, training for vocational education instructors,
5 transportation and training material and equipment; and

6 ~~[B. "person with a disability" means a person~~
7 ~~with a physical or mental disability that constitutes a~~
8 ~~substantial handicap to employment but that is of such a~~
9 ~~nature that vocational rehabilitation may be reasonably~~
10 ~~expected to enable the person to engage in a remunerative~~
11 ~~occupation;~~

12 ~~C. "vocational rehabilitation" means services or~~
13 ~~training necessary to enable a person with a disability to~~
14 ~~engage in a remunerative occupation. Vocational~~
15 ~~rehabilitation may provide but is not limited to medical or~~
16 ~~vocational diagnosis, vocational guidance, counseling and~~
17 ~~placement, rehabilitation training, physical restoration,~~
18 ~~transportation, occupational licenses, customary occupational~~
19 ~~tools or equipment, maintenance and training material and~~
20 ~~equipment; and~~

21 ~~D.]~~ B. "federal aid funds" means funds, gifts or
22 grants received by the state under any federal aid for
23 vocational education [~~or vocational rehabilitation~~]."

24 SECTION 18. Section 22-14-9 NMSA 1978 (being Laws
25 1967, Chapter 16, Section 198, as amended) is amended to

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1 read:

2 "22-14-9. CUSTODY OF FUNDS--BUDGETS--DISBURSEMENTS.--

3 A. The state treasurer shall be the custodian of
4 all federal aid funds. The state treasurer shall hold these
5 funds in separate accounts according to the purposes of the
6 funds.

7 B. All state funds, federal aid funds or grants
8 to the state relating to vocational education shall be
9 budgeted and accounted for as provided by law and by the
10 rules of the department of finance and administration. These
11 funds or grants shall be disbursed by warrants of the
12 department of finance and administration on vouchers issued
13 by the director of the instructional support and vocational
14 education division of the department or the director's
15 authorized representative.

16 ~~[G. All state funds, federal aid funds or grants~~
17 ~~to the state relating to vocational rehabilitation shall be~~
18 ~~budgeted and accounted for as provided by law and by the~~
19 ~~rules of the department of finance and administration. These~~
20 ~~funds or grants shall be disbursed by warrants of the~~
21 ~~department of finance and administration on vouchers issued~~
22 ~~by the director of the vocational rehabilitation division or~~
23 ~~the director's authorized representative.~~

24 ~~D.]~~ C. All federal aid funds received by the
25 state to be used for vocational education [~~or vocational~~

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1 ~~rehabilitation~~] programs may be expended in any succeeding
2 year from the year received."

3 SECTION 19. Section 22-14-14 NMSA 1978 (being Laws
4 1967, Chapter 16, Section 202) is amended to read:

5 "22-14-14. LIMITATIONS ON POLITICAL ACTIVITIES.--~~[No]~~
6 A person engaged in administering any vocational education
7 [~~or vocational rehabilitation~~] program pursuant to Sections
8 [~~77-12-1 through 77-12-14 New Mexico Statutes Annotated, 1953~~
9 ~~Compilation~~] 22-14-1 through 22-14-16 NMSA 1978 shall not use
10 [~~his~~] the person's official authority or influence to permit
11 the use of the vocational education [~~or vocational~~
12 ~~rehabilitation~~] program to interfere with any public election
13 or partisan political campaign. [~~Nor shall such~~] That person
14 shall not take any active part in the management of a
15 political campaign or participate in any political activity
16 beyond the person's constitutional rights of voting and of
17 free speech. [~~Nor~~] The person shall [~~he~~] not be required to
18 contribute or render service, assistance, subscription,
19 assessment or contribution for any political purpose. Any
20 person violating the provisions of this section shall be
21 subject to discharge or suspension."

22 SECTION 20. Section 28-10-1 NMSA 1978 (being Laws
23 1973, Chapter 349, Section 1, as amended) is amended to read:

24 "28-10-1. GOVERNOR'S COMMISSION ON DISABILITY.--

25 A. [~~There is created~~] The "governor's commission

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1 on disability" is created, consisting of fifteen members,
2 nine of whom shall be appointed by the governor. The six
3 remaining members shall be the director of the vocational
4 rehabilitation [~~division of the public education department~~]
5 office, the secretary of [~~labor~~] workforce solutions or the
6 secretary's designee, the director of the behavioral health
7 services division of the human services department, the
8 secretary of children, youth and families or the secretary's
9 designee, the secretary of aging and long-term services or
10 the secretary's designee and the secretary of human services
11 or the secretary's designee. Initially, three members shall
12 be appointed for terms ending December 31, 1978, three
13 members for terms ending December 31, 1980 and three members
14 for terms ending December 31, 1982. Thereafter, appointments
15 shall be for six years expiring on December 31 of even-
16 numbered years. Appointed members shall be appointed from
17 different geographic areas of the state and from the major
18 disability services in the state. Appointed members shall
19 include individuals with disabilities, representatives of
20 government and private enterprise, parents or guardians of
21 individuals with disabilities and professionals in, or those
22 who are interested in, service for individuals with
23 disabilities. Not more than five of the members appointed by
24 the governor shall be of the same political party.

25 B. A majority of the members of the commission

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1 constitutes a quorum for the transaction of business. The
2 commission shall meet at least twice a year and shall
3 annually elect a chair and a vice chair.

4 C. The commission shall be primarily concerned
5 with those individuals with disabilities who have a condition
6 that, regardless of its physical or mental origin,
7 constitutes a substantial occupational disadvantage."

8 SECTION 21. Section 28-11A-3 NMSA 1978 (being Laws
9 1981, Chapter 260, Section 3) is amended to read:

10 "28-11A-3. VOCATIONAL REHABILITATION [~~DIVISION~~]
11 OFFICE--PURCHASE OF TELECOMMUNICATION DEVICES FOR THE DEAF.--
12 [~~A telecommunication device for the deaf shall be purchased~~
13 ~~by]~~ The vocational rehabilitation [~~division of the department~~
14 ~~of education]~~ office shall purchase and [~~installed]~~ install a
15 telecommunication device for the deaf in the office of the
16 municipal police department of any municipality with a
17 population in excess of ten thousand inhabitants, if the
18 [~~division]~~ office determines and verifies that at least five
19 telecommunication devices for the deaf are in use by deaf
20 persons in the municipality, and in the office of the county
21 sheriff in counties not having a municipality with a
22 population in excess of ten thousand inhabitants, if the
23 [~~division]~~ commission determines and verifies that at least
24 five such devices are in use by deaf persons in that county."

25 SECTION 22. Section 28-11B-1 NMSA 1978 (being Laws

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1 1991, Chapter 72, Section 1, as amended) is amended to read:

2 "28-11B-1. COMMISSION FOR DEAF AND HARD-OF-HEARING
3 PERSONS CREATED.--

4 A. [~~There is created~~] The "commission for deaf
5 and hard-of-hearing persons" is created, consisting of seven
6 members, a majority of whom are deaf or hard-of-hearing
7 persons, including three ex-officio members and four members
8 appointed by the governor without regard for party
9 affiliation, with the advice and consent of the senate.
10 Terms of appointed members shall be for six years, expiring
11 on December 31 of odd-numbered years, in accordance with the
12 staggered terms of the appointed members holding office on
13 [~~the effective date of this~~] June 18, 1999 [~~amendment~~].

14 B. Ex-officio members are the:

15 (1) [~~the~~] president of the New Mexico
16 association [~~for~~] of the deaf or [~~his~~] the president's
17 designee;

18 (2) [~~the~~] superintendent of the New Mexico
19 school for the deaf or [~~his~~] the superintendent's designee;
20 and

21 (3) [~~the~~] director of the vocational
22 rehabilitation [~~division of the state department of public~~
23 ~~education~~] office or [~~his~~] the director's designee, who shall
24 be knowledgeable in the area of deafness.

25 C. Appointed members are:

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1 (1) a parent of a deaf or hard-of-hearing
2 child;

3 (2) a professional person who is deaf or
4 hard of hearing;

5 (3) a deaf or hard-of-hearing person who
6 resides in southern New Mexico; and

7 (4) a deaf or hard-of-hearing person who
8 resides in northern New Mexico.

9 D. A majority of the members of the commission
10 for deaf and hard-of-hearing persons constitutes a quorum for
11 transaction of business. The commission shall elect a
12 [~~chairman~~] chair from its membership.

13 E. Members of the commission for deaf and hard-
14 of-hearing persons shall be compensated as provided in the
15 Per Diem and Mileage Act and shall receive no other
16 compensation, perquisite or allowance.

17 F. Commission members who are serving [~~upon the~~
18 ~~effective date of this 1999 act~~] on June 18, 1999 shall serve
19 out the terms to which they were appointed."

20 SECTION 23. Section 28-16A-4 NMSA 1978 (being Laws
21 1993, Chapter 50, Section 4, as amended) is amended to read:

22 "28-16A-4. DEVELOPMENTAL DISABILITIES COUNCIL--
23 CREATION--MEMBERSHIP--TERMS.--

24 A. The "developmental disabilities council" is
25 created in accordance with the federal Developmental

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1 Disabilities Assistance and Bill of Rights Act. The council
2 shall be an adjunct agency as provided in the Executive
3 Reorganization Act.

4 B. The council shall consist of no fewer than
5 twenty-five members, at least sixty percent of whom shall be:

6 (1) individuals with developmental
7 disabilities;

8 (2) parents or legal guardians of children
9 with developmental disabilities; or

10 (3) immediate relatives or guardians of
11 adults with mentally impairing developmental disabilities who
12 cannot advocate for themselves.

13 C. Of the sixty percent of members described in
14 Subsection B of this section, one-third shall be individuals
15 with developmental disabilities, one-third shall be members
16 described in Paragraphs (2) and (3) of Subsection B of this
17 section and one-third shall be a combination of members
18 described in Subsection B of this section. At least one
19 member described in Subsection B of this section shall be an
20 immediate relative or guardian of an individual who resides
21 or previously resided in an institution or shall be an
22 individual with a developmental disability who resides or
23 previously resided in an institution. No member of the
24 council shall be an employee, or someone who manages
25 employees, of a state agency that receives funds to provide

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1 developmental disabilities supports and services.

2 D. The council shall also include:

3 (1) the secretary of health, or the
4 secretary's designee;

5 (2) the secretary of human services, or the
6 secretary's designee;

7 (3) the secretary of children, youth and
8 families, or the secretary's designee;

9 (4) the secretary of aging and long-term
10 services, or the secretary's designee;

11 (5) the secretary of public education, or
12 the secretary's designee;

13 (6) the director of the vocational
14 rehabilitation [~~division of the public education department,~~
15 ~~or the director's designee~~] office;

16 (7) the director of the state protection and
17 advocacy system established pursuant to the federal
18 Developmental Disabilities Assistance and Bill of Rights Act
19 of 1990, or the director's designee;

20 (8) the director of an entity within a state
21 institution of higher education designated as a university
22 center for excellence in developmental disabilities
23 education, research and service; and

24 (9) at all times, representatives of local
25 and nongovernmental agencies and private nonprofit groups

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1 concerned with services for individuals with developmental
2 disabilities in New Mexico.

3 E. The governor shall select the members of the
4 council for appointment pursuant to Subsection B and
5 Paragraph (9) of Subsection D of this section after
6 soliciting recommendations from organizations representing a
7 broad range of individuals with developmental disabilities
8 and individuals interested in individuals with developmental
9 disabilities. The council may, at the initiative of the
10 council or at the request of the governor, coordinate council
11 and public input to the governor regarding all
12 recommendations.

13 F. The membership of the council shall be
14 geographically representative of the state and reflect the
15 diversity of the state with respect to race and ethnicity.

16 G. Members, except for ex-officio members, shall
17 be appointed by the governor for terms of three years.

18 H. The governor shall provide for rotation of the
19 membership of the council. These provisions shall allow
20 members to continue to serve on the council until those
21 members' successors are appointed.

22 I. The council shall notify the governor
23 regarding membership requirements of the council and shall
24 notify the governor when vacancies on the council remain
25 unfilled for a significant period of time.

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1 J. Council members shall recuse themselves from
2 any discussion of grants or contracts for which such members'
3 departments, agencies or programs are grantees, contractors
4 or applicants. The council shall ensure that no council
5 member casts a vote on any matter that would provide direct
6 financial benefit to the member or otherwise give the
7 appearance of a conflict of interest."

8 **SECTION 24.** Section 28-16A-8 NMSA 1978 (being Laws
9 1993, Chapter 50, Section 8, as amended) is amended to read:

10 "28-16A-8. REPORTING ON COMMUNITY SERVICES FOR PERSONS
11 WITH DEVELOPMENTAL DISABILITIES.--The department of health,
12 the human services department, the public education
13 department, the vocational rehabilitation [~~division of the~~
14 ~~public education department~~] commission, the children, youth
15 and families department, the New Mexico school for the blind
16 and visually impaired and the New Mexico school for the deaf
17 shall provide to the council, on an annual basis, information
18 and data with respect to the actual or estimated number of
19 individuals with developmental disabilities served by the
20 agency, the type of services provided, any major changes in
21 policies adopted in the previous year or anticipated in the
22 coming year that have had or are expected to have a
23 beneficial or deleterious effect on persons with
24 developmental disabilities and any gaps in eligibility or
25 services that pose a barrier to the provision of services

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1 needed by persons with developmental disabilities."

2 SECTION 25. Section 28-16A-9 NMSA 1978 (being Laws
3 1993, Chapter 50, Section 9, as amended) is amended to read:

4 "28-16A-9. INFORMATION AND REFERRAL SYSTEM--
5 COORDINATION AND CONTINUATION.--In order to coordinate
6 information and referral services and eliminate the
7 duplication of effort, the council shall provide information
8 and referral services for persons with disabilities, their
9 families, providers of support and services and local and
10 state agencies, including:

- 11 A. the human services department;
- 12 B. the department of health;
- 13 C. the public education department [~~and its~~
14 ~~vocational rehabilitation division~~];
- 15 D. the vocational rehabilitation commission;
- 16 [~~D.~~] E. the New Mexico school for the deaf;
- 17 [~~E.~~] F. the New Mexico school for the blind and
18 visually impaired;
- 19 [~~F.~~] G. the Carrie Tingley crippled children's
20 hospital; and
- 21 [~~G.~~] H. the children, youth and families
22 department."

23 SECTION 26. Section 38-9-6 NMSA 1978 (being Laws 1979,
24 Chapter 263, Section 6, as amended) is amended to read:

25 "38-9-6. NOTICE--PROOF OF DISABILITY.--Every deaf

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1 person whose appearance at a proceeding entitles the person
2 to an interpreter shall notify the appointing authority of
3 the person's disability at least two weeks prior to any
4 appearance and shall request the services of an interpreter.
5 An appointing authority may require a person requesting the
6 appointment of an interpreter to furnish reasonable proof of
7 the person's disability when the appointing authority has
8 reason to believe that the person is not so disabled.
9 Reasonable proof shall include but not be limited to a
10 statement from a doctor, an audiologist, the vocational
11 rehabilitation [~~division of the public education department~~]
12 office, the commission for deaf and hard-of-hearing persons
13 or a school nurse that identifies the person as deaf or as
14 having hearing so seriously impaired as to prohibit the
15 person from understanding voice communications."

16 SECTION 27. TEMPORARY PROVISION--TRANSFER OF
17 FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, RECORDS AND
18 PROPERTY.--On the effective date of this act:

19 A. all functions, personnel, money,
20 appropriations, records, furniture, equipment, supplies and
21 other property of the vocational rehabilitation division of
22 the public education department are transferred to the
23 vocational rehabilitation commission;

24 B. all contractual obligations of the vocational
25 rehabilitation division of the public education department

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1 are binding on the vocational rehabilitation commission and
2 the vocational rehabilitation office; and

3 C. all references in law to the vocational
4 rehabilitation division of the public education department
5 shall be deemed to be references to the vocational
6 rehabilitation commission and the vocational rehabilitation
7 office.

8 SECTION 28. REPEAL.--Sections 22-14-2.1, 22-14-3.1,
9 22-14-7, 22-14-8, 22-14-11 through 22-14-13 and 22-14-30 NMSA
10 1978 (being Laws 2005, Chapter 328, Sections 2 and 4, Laws
11 1967, Chapter 16, Sections 196 and 197, Laws 1967, Chapter
12 16, Section 199, Laws 1983, Chapter 60, Section 1, Laws 1967,
13 Chapter 16, Sections 200 and 201 and Laws 1971, Chapter 324,
14 Section 4, as amended) are repealed.

15 SECTION 29. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2022.