

1 SENATE BILL 242

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

3 INTRODUCED BY

4 Eric G. Griego

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10 AN ACT

11 RELATING TO EXECUTIVE ORGANIZATION; CREATING THE COMMERCE AND
12 ECONOMIC DEVELOPMENT DEPARTMENT; REPLACING THE ECONOMIC
13 DEVELOPMENT DEPARTMENT, THE TOURISM DEPARTMENT, THE REGULATION
14 AND LICENSING DEPARTMENT AND THE WORKFORCE SOLUTIONS
15 DEPARTMENT; PROVIDING POWERS AND DUTIES; ELIMINATING CERTAIN
16 AUTHORITIES, BOARDS, COMMISSIONS, COUNCILS AND COMMITTEES;
17 TRANSFERRING FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY,
18 CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; AMENDING,
19 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
23 through 34 of this act may be cited as the "Commerce and
24 Economic Development Department Act".

25 Section 2. [NEW MATERIAL] PURPOSE.--The purpose of the
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1 Commerce and Economic Development Department Act is to
2 establish a single, unified department to administer laws and
3 exercise functions formerly administered and exercised by the
4 economic development department, the tourism department, the
5 workforce solutions department and the regulation and licensing
6 department.

7 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
8 Commerce and Economic Development Department Act:

9 A. "department" means the commerce and economic
10 development department; and

11 B. "secretary" means the secretary of commerce and
12 economic development.

13 Section 4. [NEW MATERIAL] DEPARTMENT CREATED--
14 ORGANIZATIONAL UNITS.--

15 A. The "commerce and economic development
16 department" is created as a cabinet department and includes the
17 following organizational units:

- 18 (1) office of the secretary;
19 (2) administrative services division;
20 (3) alcohol and gaming division;
21 (4) business services division;
22 (5) construction industries division:
23 (a) general construction bureau;
24 (b) electrical bureau;
25 (c) liquified petroleum gas bureau; and

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- 1 (d) mechanical bureau;
- 2 (6) economic development division:
- 3 (a) international trade bureau;
- 4 (b) marketing bureau;
- 5 (c) New Mexico film bureau;
- 6 (d) enterprise development bureau; and
- 7 (e) technology enterprise bureau;
- 8 (7) financial institutions division;
- 9 (8) human rights division;
- 10 (9) labor relations division:
- 11 (a) human rights bureau; and
- 12 (b) labor and industrial bureau;
- 13 (10) manufactured housing division;
- 14 (11) Mexican affairs and trade division;
- 15 (12) securities division;
- 16 (13) tourism development division:
- 17 (a) New Mexico magazine bureau; and
- 18 (b) welcome centers bureau;
- 19 (14) work force technology division; and
- 20 (15) work force transition services division.

21 B. The secretary may establish, merge or eliminate
22 organizational units of the department for better efficiency
23 and effectiveness, but a reorganization of statutory divisions
24 or bureaus shall be reported to the next regular session of the
25 legislature.

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1 Section 5. ~~[NEW MATERIAL]~~ ADMINISTRATIVELY ATTACHED
2 AGENCIES.--

3 A. The following boards, commissions, committees,
4 administrations, authorities and councils are administratively
5 attached agencies of the department:

- 6 (1) apprenticeship council;
- 7 (2) athletic commission;
- 8 (3) border authority;
- 9 (4) construction industries commission;
- 10 (5) economic development and tourism
11 commission;
- 12 (6) human rights commission;
- 13 (7) labor and industrial commission;
- 14 (8) manufactured housing committee;
- 15 (9) New Mexico-Chihuahua commission;
- 16 (10) New Mexico-Sonora commission;
- 17 (11) small business regulatory advisory
18 commission, which is attached to the business services
19 division;
- 20 (12) spaceport authority;
- 21 (13) state fair commission;
- 22 (14) state racing commission;
- 23 (15) workers' compensation administration; and
- 24 (16) state workforce development board.

25 B. The professional and occupational licensing

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1 boards created in Chapter 61 NMSA 1978 that had been
2 administratively attached to the regulation and licensing
3 department are administratively attached to the administrative
4 services division of the department.

5 Section 6. [NEW MATERIAL] SECRETARY OF COMMERCE AND
6 ECONOMIC DEVELOPMENT.--The chief executive and administrative
7 officer of the department is the "secretary of commerce and
8 economic development". The secretary shall be appointed by the
9 governor with the consent of the senate. The secretary shall
10 hold that office at the pleasure of the governor and shall
11 serve in the executive cabinet.

12 Section 7. [NEW MATERIAL] DIVISIONS--DIRECTORS.--The
13 secretary shall appoint, with the approval of the governor,
14 directors of divisions established within the department.
15 Division directors are exempt from the provisions of the
16 Personnel Act.

17 Section 8. [NEW MATERIAL] BUREAUS--CHIEFS.--The secretary
18 shall establish with each division such "bureaus" as deemed
19 necessary to carry out the provisions of the Commerce and
20 Economic Development Department Act. The secretary shall
21 employ a "chief" to be the administrative head of each bureau.
22 The chief and all subsidiary employees of the department shall
23 be covered by the Personnel Act unless otherwise provided by
24 law.

25 Section 9. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL

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1 POWERS.--

2 A. The secretary is responsible to the governor for
3 the operation of the department. It is the secretary's duty to
4 manage all operations of the department and to administer and
5 enforce the laws with which the secretary or the department is
6 charged.

7 B. To perform the secretary's duties, the secretary
8 has every power expressly enumerated in the laws, whether
9 granted to the secretary or the department or any division of
10 the department, except when authority conferred upon any
11 division is explicitly exempted from the secretary's authority
12 by statute. In accordance with these provisions, the secretary
13 shall:

14 (1) except as otherwise provided in the
15 Commerce and Economic Development Department Act, exercise
16 general supervisory and appointing authority over all
17 department employees, subject to any applicable personnel laws
18 and rules;

19 (2) delegate authority to subordinates as the
20 secretary deems necessary and appropriate, clearly delineating
21 such delegated authority and the limitations thereto;

22 (3) organize the department into those
23 organizational units the secretary deems will enable it to
24 function most efficiently;

25 (4) within the limitations of available

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1 appropriations and applicable laws, employ and fix the
2 compensation of those persons necessary to discharge the
3 secretary's duties;

4 (5) take administrative action by issuing
5 orders and instructions, not inconsistent with the law, to
6 assure implementation of and compliance with the provisions of
7 law for whose administration or execution the secretary is
8 responsible and to enforce those orders and instructions by
9 appropriate administrative action in the courts;

10 (6) conduct research and studies that will
11 improve the operations of the department and the provision of
12 services to the residents of the state;

13 (7) provide for courses of instruction and
14 practical training for employees of the department and other
15 persons involved in the administration of programs, with the
16 objective of improving the operations and efficiency of
17 administration;

18 (8) prepare an annual budget of the department
19 based upon the five-year economic development and tourism plan.
20 The plan shall be updated and approved annually;

21 (9) provide cooperation, at the request of
22 heads of administratively attached agencies, in order to:

23 (a) minimize or eliminate duplication of
24 services;

25 (b) coordinate activities and resolve

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1 problems of mutual concern; and

2 (c) resolve by agreement the manner and
3 extent to which the department shall provide budgeting,
4 recordkeeping and related clerical assistance to
5 administratively attached agencies; and

6 (10) appoint a "director" for each division.
7 These appointed positions are exempt from the provisions of the
8 Personnel Act. Persons appointed to these positions shall
9 serve at the pleasure of the secretary.

10 C. The secretary may apply for and receive in the
11 name of the department any public or private funds, including
12 United States government funds, available to the department to
13 carry out its programs, duties or services.

14 D. The secretary may make and adopt such reasonable
15 and procedural rules as may be necessary to carry out the
16 duties of the department and its divisions. No rule
17 promulgated by the director of any division in carrying out the
18 functions and duties of the division shall be effective until
19 approved by the secretary, unless otherwise provided by
20 statute. Unless otherwise provided by statute, no rule
21 affecting any person or agency outside the department shall be
22 adopted, amended or repealed without a public hearing on the
23 proposed action before the secretary or a hearing officer
24 designated by the secretary. The public hearing shall be held
25 in Santa Fe unless otherwise permitted by statute. Notice of

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1 the subject matter of the rule, the action proposed to be
2 taken, the time and place of the hearing, the manner in which
3 interested persons may present their views and the method by
4 which copies of the proposed rule, proposed amendment or repeal
5 of an existing rule may be obtained shall be published once at
6 least thirty days prior to the hearing date in a newspaper of
7 general circulation and mailed at least thirty days prior to
8 the hearing date to all persons who have made a written request
9 for advance notice of hearing. All rules shall be filed in
10 accordance with the State Rules Act.

11 Section 10. [NEW MATERIAL] ADDITIONAL ECONOMIC
12 DEVELOPMENT DUTIES.--The department shall:

13 A. provide a coordinated statewide perspective with
14 regard to economic development activities;

15 B. work with and provide staff support to the
16 economic development and tourism commission in formulating and
17 implementing the state's five-year economic development plan;

18 C. maintain and update records on the status of all
19 completed and ongoing economic development projects of the
20 department;

21 D. develop, maintain and provide economic and
22 demographic information;

23 E. provide a database for local and regional
24 economic development groups and serve as a comprehensive source
25 of information and assistance to businesses wishing to locate

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1 or expand in New Mexico;

2 F. actively encourage new economic enterprises to
3 locate in New Mexico and assist existing businesses to expand;

4 G. monitor the progress of state-supported economic
5 development activities and prepare annual reports of those
6 activities and their status and impact;

7 H. create and encourage methods designed to provide
8 rapid economic diversification development that will create new
9 employment opportunities for the residents of the state,
10 including the issuance of grants and loans to municipalities
11 and counties for economic enhancement projects;

12 I. provide for technology commercialization
13 projects as an incentive to industry locating or expanding in
14 the state;

15 J. support technology transfer programs;

16 K. promote New Mexico as a technology conference
17 center;

18 L. promote and market federal and state technology
19 commercialization programs;

20 M. develop and implement enhanced statewide
21 procurement programs;

22 N. provide support and assistance in the creation
23 and operation of development finance mechanisms such as
24 business development corporations and the industrial and
25 agricultural finance authorities in order to ensure capital

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1 availability for business expansion and economic
2 diversification; and

3 O. serve as the lead agency in coordination of the
4 census program at the state data center.

5 Section 11. [NEW MATERIAL] ADDITIONAL TOURISM PROMOTION
6 DUTIES.--The department shall:

7 A. provide a coordinated statewide perspective with
8 regard to tourism activities;

9 B. work with and provide staff support to the
10 economic development and tourism commission in formulating and
11 implementing the state's five-year tourism plan;

12 C. provide a database for local and regional
13 tourism groups and serve as a comprehensive source of
14 information and assistance to tourism-related businesses
15 wishing to locate, expand or do business in New Mexico;

16 D. monitor the progress of state-supported tourism
17 activities and prepare annual reports of those activities and
18 their status and impact; and

19 E. maintain and update records on the status of all
20 completed and ongoing tourism-related projects of the
21 department.

22 Section 12. [NEW MATERIAL] ADDITIONAL DUTIES--INDIAN
23 ARTS, CRAFTS AND CULTURE--PROMOTION.--The department shall:

24 A. encourage the preservation and development of
25 Indian arts and crafts among the Indian nations, tribes and

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1 pueblos of the state to increase the knowledge and appreciation
2 of those arts and crafts;

3 B. encourage the preservation of traditional rites
4 and ceremonials of Indian nations, tribes and pueblos to
5 increase knowledge and appreciation of those rites and
6 ceremonials; and

7 C. promote the intertribal ceremonial.

8 Section 13. [NEW MATERIAL] ADDITIONAL DUTIES--DEFENSE
9 CONVERSION AND TECHNOLOGY.--

10 A. The department is the lead agency to promote
11 defense conversion technology, to coordinate the transfer of
12 defense technology and other technology from federal, state and
13 local government facilities to private sector industries and to
14 promote private-public partnership and business development
15 programs. The department shall coordinate or accept federal
16 and state funds appropriated for conversion of defense
17 technologies and to coordinate technology transfer in
18 accordance with the state's technology development plan.

19 B. The department may contract with appropriate
20 partnership intermediaries to assist in the coordination of
21 defense conversion duties.

22 C. The department shall:

23 (1) oversee the activities of the
24 manufacturing productivity center and manufacturing extension
25 programs;

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1 (2) coordinate the activities of small
2 business incubators to encourage the development and viability
3 of technology spin-off companies in the private sector;

4 (3) coordinate appropriate divisions in the
5 department to provide technology export assistance;

6 (4) coordinate small business development and
7 assistance programs for new and existing businesses;

8 (5) work with appropriate entities to identify
9 sources of funding for capital expenditure programs and initial
10 venture programs;

11 (6) coordinate the development of regional
12 technology clusters; and

13 (7) provide support and coordination
14 assistance as deemed necessary by the economic development and
15 tourism commission and the secretary to assist the state in
16 developing defense conversion industries.

17 Section 14. [NEW MATERIAL] ORGANIZATIONAL UNITS OF
18 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
19 INFORMATION.--Those organizational units of the department and
20 the officers of those units specified by law shall have all of
21 the powers and duties enumerated in the specific laws involved.
22 However, the carrying out of those powers and duties shall be
23 subject to the direction and supervision of the secretary, and
24 the secretary shall retain the final decision-making authority
25 and responsibility for the administration of any such laws as

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1 provided in Subsection B of Section 9 of the Commerce and
2 Economic Development Department Act. The department shall have
3 access to all records, data and information of other state
4 departments, agencies and institutions, including its own
5 organizational units, not specifically held confidential by
6 law. Any information obtained by the department that is
7 proprietary technical information or related to the possible
8 relocation or expansion of a business shall be deemed
9 confidential and withheld from inspection pursuant to the
10 Inspection of Public Records Act.

11 Section 15. [NEW MATERIAL] COOPERATION WITH FEDERAL
12 GOVERNMENT--AUTHORITY OF SECRETARY--SINGLE STATE AGENCY
13 STATUS.--

14 A. The department is authorized to cooperate with
15 the federal government in the administration of employment,
16 training and public assistance programs under the jurisdiction
17 of the department in which financial or other participation by
18 the federal government is authorized or mandated under federal
19 laws, regulations, rules or orders. The secretary may enter
20 into agreements with agencies of the federal government to
21 implement employment, training and public assistance programs
22 subject to availability of appropriated state funds and any
23 provisions of state laws applicable to such agreements or
24 participation by the state.

25 B. The governor or the secretary may designate the

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1 department or any organizational unit of the department as the
2 single state agency for the administration of any employment,
3 training or public assistance program, either by the governor's
4 or the secretary's own discretion or when such designation is a
5 condition of federal financial or other participation in the
6 program under applicable federal law, regulation, rule or
7 order. No designation of a single state agency under the
8 authority granted in this section shall be made in
9 contravention of state law.

10 Section 16. [NEW MATERIAL] FINANCIAL INSTITUTIONS
11 DIVISION--SECURITIES DIVISION--EXEMPTIONS FROM AUTHORITY OF
12 SECRETARY.--The responsibilities of the director of the
13 financial institutions division, the director of the securities
14 division and those of the chief of the savings and loan bureau
15 under Sections 58-1-20 through 58-1-22, 58-1-25, 58-1-26,
16 58-1-28, 58-1-29, 58-1-34, 58-1-38, 58-1-46, 58-1-48, 58-1-54
17 through 58-1-58, 58-1-61, 58-1-62, 58-1-64, 58-1-65, 58-1-69,
18 58-1-72 through 58-1-75, 58-1-85, 58-1A-6, 58-1B-10, 58-1C-4,
19 58-1C-11 and 58-1C-12, 58-2-5, 58-4-3, 58-4-4, 58-4-7, 58-4-9,
20 58-4-11, 58-5-2, 58-5-3, 58-7-9, 58-9-7 through 58-9-10,
21 58-10-11 through 58-10-14, 58-10-16, 58-10-17, 58-10-28,
22 58-10-32, 58-10-35, 58-10-46, 58-10-53, 58-10-72, 58-10-73,
23 58-10-76, 58-10-77, 58-10-79 through 58-10-85, 58-10-87,
24 58-10-92, 58-10-94, 58-10-97, 58-10-101, 58-11-3, 58-11-5,
25 58-11-6, 58-11-8, 58-11-24, 58-11-26, 58-11-32, 58-12-3,

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1 Subsection C of Section 58-12-4, 58-12-7, 58-12-8, 58-12-13,
2 58-15-5, 58-15-8 through 58-15-13, 58-15-18, 58-15-25, 58-20-1,
3 61-18A-3, 61-18A-4, 61-18A-12, 61-18A-14, 61-18A-16 and
4 61-18A-33 NMSA 1978 and the New Mexico Uniform Securities Act
5 are hereby explicitly exempted from the authority of the
6 secretary as provided in Subsection B of Section 9 of the
7 Commerce and Economic Development Department Act.

8 Section 17. [NEW MATERIAL] CONSTRUCTION INDUSTRIES
9 COMMISSION--EXERCISE OF POWERS AND DUTIES EXEMPT FROM AUTHORITY
10 OF SECRETARY.--All responsibilities of the construction
11 industries commission pursuant to Sections 60-13-6, 60-13-9
12 through 60-13-11, 60-13-13.2, 60-13-14 through 60-13-16,
13 60-13-18, 60-13-23 through 60-13-24, 60-13-27, 60-13-28,
14 60-13-36, 60-13-38, 60-13-41, 60-13-43, 60-13-44, 60-13-45,
15 60-13-49, 60-13-53, 60-13-55, 60-13-57, 61-1-1 through 61-1-33,
16 70-5-3 through 70-5-7, 70-5-11 through 70-5-15 and 70-5-18 NMSA
17 1978 are hereby explicitly exempted from the authority of the
18 secretary as provided in Subsection B of Section 9 of the
19 Commerce and Economic Development Department Act.

20 Section 18. [NEW MATERIAL] MANUFACTURED HOUSING
21 COMMITTEE--EXERCISE OF POWERS AND DUTIES EXEMPT FROM AUTHORITY
22 OF SECRETARY.--All responsibilities of the manufactured housing
23 committee pursuant to Sections 60-14-4 through 60-14-9,
24 60-14-12 and 60-14-14 NMSA 1978 are hereby explicitly exempted
25 from the authority of the secretary as provided in Subsection B

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1 of Section 9 of the Commerce and Economic Development
2 Department Act.

3 Section 19. [NEW MATERIAL] ECONOMIC DEVELOPMENT AND
4 TOURISM COMMISSION CREATED--MEMBERSHIP--ADMINISTRATIVELY
5 ATTACHED TO THE DEPARTMENT--POWERS AND DUTIES.--

6 A. The "economic development and tourism
7 commission" is created and is administratively attached to the
8 department. The department shall provide administrative
9 support for the commission. The commission is a planning
10 commission that provides advice to the department on policy
11 matters. The commission is responsible for the annual approval
12 and update of the state's five-year economic development and
13 tourism plan.

14 B. The commission consists of fifteen members who
15 shall be qualified electors of the state, no more than eight of
16 whom at the time of their appointment shall be members of the
17 same political party and at least two of whom shall be Native
18 American. Members shall be appointed by the governor and
19 confirmed by the senate. Seven members shall be appointed from
20 their respective planning districts, three members shall be
21 appointed from their respective congressional districts, two
22 members shall be Native American and represent the interests of
23 Indian nations, tribes and pueblos and three members shall
24 represent the public at large. Appointments shall be made for
25 staggered five-year terms expiring on January 1 of the

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1 appropriate year. The governor shall determine the terms at
2 the time of initial appointments. A vacancy on the commission
3 shall be filled by appointment by the governor in the same
4 manner as the original appointment for the unexpired term.

5 C. Annually, the governor shall designate a chair
6 of the commission from among the members. The commission shall
7 meet at the call of the chair, not less than once each calendar
8 quarter, and shall invite representatives of appropriate
9 legislative committees, other state agencies and interested
10 persons to its meetings for the purpose of information exchange
11 and coordination.

12 D. Commission members shall not vote by proxy. A
13 majority of the members constitutes a quorum for the conduct of
14 business.

15 E. Members of the commission shall not be removed
16 except for incompetence, neglect of duty or malfeasance in
17 office; provided, however, no removal shall be made without
18 notice of hearing and an opportunity to be heard having first
19 been given the member being removed. The senate shall be given
20 exclusive original jurisdiction over proceedings to remove
21 members of the commission under such rules as it may
22 promulgate. The senate's decision in connection with such
23 matters shall be final.

24 F. Commission members are entitled to receive per
25 diem and mileage as provided in the Per Diem and Mileage Act

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1 but shall receive no other compensation, perquisite or
2 allowance.

3 G. The commission shall:

4 (1) develop and recommend policies and provide
5 policy and program guidance for the department;

6 (2) review, modify and approve annual updates
7 to the state's five-year economic development and tourism plan
8 generated by the department;

9 (3) advise, assist and promote the department
10 on matters relating to economic development, tourism, tribal
11 tourism, technology, technology-based new business development
12 and technology commercialization projects, including small
13 business needs;

14 (4) review federal technology-based programs
15 requiring state matching funds and authorize any expenditure or
16 pledge of the state match fund for such programs; and

17 (5) establish such rules for its own
18 operations as are necessary to achieve the purposes of the
19 Commerce and Economic Development Department Act. Rules of the
20 commission shall be adopted in the same procedural manner as
21 rules of the department are adopted and shall be filed in
22 accordance with the State Rules Act.

23 Section 20. [NEW MATERIAL] ADMINISTRATIVE SERVICES
24 DIVISION.--

25 A. The administrative services division shall

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1 provide administrative services to the department, including:

2 (1) keeping all official records of the
3 department;

4 (2) providing personnel administration,
5 financial management, procurement and budget preparation
6 services for the department; and

7 (3) providing clerical, recordkeeping and
8 administrative support to occupational and professional
9 licensing boards and to other agencies administratively
10 attached to the department.

11 B. The division shall, in addition to its other
12 duties, administer programs and grants that have been assigned
13 generally to the department by the governor or the economic
14 development and tourism commission or by statute.

15 Section 21. [NEW MATERIAL] DEPARTMENT COOPERATION WITH
16 LOCAL AND REGIONAL ECONOMIC DEVELOPMENT AGENCIES.--The
17 department shall cooperate with local and regional development
18 agencies, including:

19 A. coordinating activities of the department and
20 local or regional development agencies;

21 B. assisting in gathering information on local and
22 regional assets;

23 C. assisting in the establishment of procedures for
24 handling potential clients;

25 D. assisting in the development of a plan for the

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1 expansion of the local or regional economic base;

2 E. assisting in marketing the benefits of local
3 communities by providing matching funds through the state
4 cooperative advertising program, which shall include as
5 eligible expenses travel and related costs to attract new
6 business investment into the communities;

7 F. assisting in the establishment of programs to
8 attract new labor forces or to train local labor forces; and

9 G. identifying barriers to local or regional
10 economic development and developing plans to overcome such
11 barriers.

12 Section 22. [NEW MATERIAL] ENTERPRISE DEVELOPMENT BUREAU
13 DUTIES--BUSINESS INCUBATORS--FUND CREATED.--

14 A. The enterprise development bureau of the
15 economic development division shall:

16 (1) provide information and assistance to
17 businesses wishing to relocate to New Mexico or to expand
18 within New Mexico by providing a centralized information
19 service and assistance center;

20 (2) develop and maintain a comprehensive
21 statewide business information database and referral service;

22 (3) establish a mechanism for advertising the
23 existence of the bureau and its referral service;

24 (4) provide professional assistance and
25 information regarding licensing, permitting and taxation

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1 procedures; and

2 (5) establish a reporting procedure to monitor
3 the success of the referral service.

4 B. Business incubators receiving state funds shall
5 be required to pass a state incubator certification program
6 administered by the bureau. The bureau shall certify business
7 incubators that submit documentation to the department that the
8 incubator has:

9 (1) a mission statement that defines the
10 incubator's role to assist entrepreneurs and support the growth
11 of businesses;

12 (2) a formal feasibility study indicating an
13 appropriate market and local community support and a business
14 plan;

15 (3) an effective governing board or an
16 appropriate oversight advisory board committed to the
17 incubator's mission;

18 (4) qualified management and staff to achieve
19 the mission of the incubator and to help businesses;

20 (5) an ongoing business assistance program
21 that places the greatest value on client assistance and adds
22 value to client businesses by developing programs and
23 coordinating activities such as:

24 (a) technical assistance and consulting;

25 (b) coaching and mentoring, business

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1 training workshops and seminars;

2 (c) providing marketing assistance;

3 (d) fostering networking opportunities
4 and links with other business service providers; and

5 (e) providing assistance in obtaining
6 financing;

7 (6) a facility that encourages innovation and
8 provides dedicated space for incubator client firms with
9 flexible leases and that includes a common area meeting space
10 and business equipment;

11 (7) a process for client businesses that
12 involves a screening and selection process and graduation
13 policy for client companies;

14 (8) a system for program evaluation;

15 (9) all applicable required licenses and
16 permits and a functional accounting system; and

17 (10) membership in the national business
18 incubation association.

19 Section 23. [NEW MATERIAL] ARTISANS BUSINESS DEVELOPMENT
20 PROGRAM--FUND.--

21 A. The "New Mexico artisans business development
22 program" is created within the department to promote, in
23 conjunction with the arts division of the of cultural affairs
24 department, the New Mexico artisans industry by establishing a
25 greater demand for New Mexico artisans' wares and by providing

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1 technical and marketing assistance to New Mexico artisans. The
2 purposes of the program include:

3 (1) establishment of a nonprofit organization
4 to carry out the objectives of the New Mexico artisans business
5 development program;

6 (2) educational workshops and seminars in
7 cooperation with the small business development centers for
8 artisans to assist the centers in the development of their
9 businesses and marketing of their wares;

10 (3) an assessment of a full range of marketing
11 strategies for artisan wares and relating those wares to target
12 markets;

13 (4) production of a promotional brochure of
14 New Mexico artisans and their products;

15 (5) development and publishing of a marketing
16 catalog of New Mexico artisans;

17 (6) establishment of a network of state and
18 national distribution points and gift and trade shows for the
19 promotion and export of New Mexico artisans' wares;

20 (7) development of a state and national
21 marketing and exhibitions calendar;

22 (8) participation in state and national
23 promotional shows by New Mexico artisans; and

24 (9) development of a marketing network with
25 private-sector distributors, catalog producers and retailers.

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1 B. The "New Mexico artisans business development
2 fund" is created as a nonreverting fund in the state treasury.
3 The fund consists of appropriations, gifts, grants, donations
4 and income from investment of the fund. The fund shall be
5 administered by the enterprise development bureau, and
6 expenditures may be made from the fund on warrants issued by
7 the secretary of finance and administration pursuant to
8 vouchers signed by the secretary of commerce and economic
9 development to carry out the purposes of the New Mexico
10 artisans business development program.

11 Section 24. [NEW MATERIAL] TOURISM ENTERPRISE FUND--
12 CREATED--ADMINISTRATION.--The "tourism enterprise fund" is
13 created as a nonreverting fund in the state treasury. Money
14 appropriated to the fund or accruing to it through sales of
15 souvenirs and sundries at visitor centers, web-site-related
16 sales, television special program rights, gifts, grants, fees,
17 bequests or any other source shall be delivered to the state
18 treasurer and deposited in the fund. The fund shall be
19 administered by the department, and money in the fund is
20 appropriated to the department to carry out the duties of the
21 department. Disbursements from the fund shall be made only
22 upon warrant drawn by the secretary of finance and
23 administration pursuant to vouchers signed by the secretary of
24 commerce and economic development.

25 Section 25. [NEW MATERIAL] TECHNOLOGY ENTERPRISE BUREAU.--

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1 The technology enterprise bureau shall:

2 A. enhance the business climate to encourage the
3 start-up, relocation, development and growth of technology-
4 based industry in New Mexico;

5 B. promote an expanded, diversified technology-
6 based economy, emphasizing areas that:

7 (1) derive from the state's technological
8 strengths;

9 (2) provide a commercial advantage;

10 (3) lend themselves to a distributed
11 technology-based industry network; and

12 (4) use imaginative state, federal and private
13 partnerships;

14 C. support in-state industries and attract new
15 industries to New Mexico;

16 D. formulate and submit to the economic development
17 and tourism commission a five-year state technology development
18 plan;

19 E. develop agreements with federal research,
20 development, testing and evaluating organizations and
21 universities to facilitate the transfer and commercialization
22 of technology;

23 F. recommend to the secretary proposed projects and
24 contracts in accordance with the policies, procedures and
25 guidelines established by the department;

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1 G. subject to the approval of the secretary, apply
2 for and accept any federal funds or grants and private
3 donations;

4 H. develop requests for proposals in technology
5 commercialization areas given priority in the state's economic
6 development and tourism plans; receive and refer with
7 commentary to the secretary proposals submitted in response to
8 requests for proposals; confer with research investigators to
9 assist them when needed; monitor progress on state-funded
10 research and development projects; maintain contact with
11 research and development offices of universities, federal
12 laboratories and private research operations; and receive
13 reports of individual projects;

14 I. prepare an annual report on:

15 (1) the status of the technology enterprise
16 bureau;

17 (2) the status of ongoing research and
18 development projects;

19 (3) the results obtained from completed
20 projects and the dissemination of those results; and

21 (4) other activities of the bureau;

22 J. maintain and update records on the status of all
23 completed and ongoing projects;

24 K. request from each entity under contract with the
25 bureau a detailed description of tasks and associated budgets

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1 for review and approval by the economic development and tourism
2 commission; and

3 L. perform such other duties as assigned by the
4 secretary.

5 Section 26. [NEW MATERIAL] TECHNOLOGY ENTERPRISE BUREAU--
6 PROPRIETARY INFORMATION.--

7 A. Any information obtained by the technology
8 enterprise bureau that is deemed by the chief and the economic
9 development division director to be proprietary technical or
10 business information shall be held in confidence. Proprietary
11 technical or business information shall not be deemed a public
12 record under the Public Records Act or be open to inspection
13 under Section 14-2-1 NMSA 1978. The technology enterprise
14 bureau shall take such steps as are necessary to safeguard the
15 confidentiality of the information.

16 B. Notwithstanding Sections 10-15-1 through 10-15-4
17 NMSA 1978 or any other law requiring meetings of public bodies
18 to be open to the public, meetings of the economic development
19 and tourism commission shall be closed when proprietary
20 technical or business information is discussed.

21 Section 27. [NEW MATERIAL] TECHNOLOGY ENTERPRISE FUND
22 CREATED.--The "technology enterprise fund" is created as a
23 nonreverting fund in the state treasury. No money appropriated
24 to the fund or accruing to it through cooperative research and
25 technology transfer agreements, gifts, grants or bequests shall

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1 be transferred to another fund or encumbered or disbursed in
2 any manner except for activities conducted pursuant to Section
3 26 of the Commerce and Economic Development Department Act.
4 Disbursements from the fund shall be made only upon warrant
5 drawn by the secretary of finance and administration pursuant
6 to vouchers signed by the secretary or the secretary's
7 authorized representative.

8 Section 28. [NEW MATERIAL] TECHNOLOGY-BASED PROPOSALS--
9 STATE MATCH FUND CREATED.--

10 A. The "state match fund" is created in the state
11 treasury. Money in the fund is appropriated to the department
12 to provide a pool of matching funds for technology-based
13 proposals submitted to the federal government on behalf of the
14 state. Money in the fund shall only be expended upon review
15 and approval of the economic development and tourism
16 commission.

17 B. No money in the fund appropriated to it or
18 accruing to it in any manner shall be transferred to another
19 fund or encumbered or dispersed in any manner except for the
20 purposes set forth in this section. Disbursements from the
21 fund shall only be made upon warrant drawn by the secretary of
22 finance and administration pursuant to vouchers signed by the
23 secretary or the secretary's authorized representative.

24 Section 29. [NEW MATERIAL] INTERNATIONAL TRADE BUREAU
25 DUTIES.--The international trade bureau is responsible for

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1 conducting and coordinating the state's relations with other
2 countries and promoting New Mexico and its products and
3 services. The bureau shall:

4 A. coordinate activities of the department and
5 other state agencies as those activities relate to improving
6 New Mexico's relations and trade with other countries;

7 B. promote New Mexico to international investors;

8 C. promote New Mexico products and services to
9 potential international consumers;

10 D. establish a central registry for New Mexico
11 products and services;

12 E. develop, maintain and use a database of
13 potential domestic and international investors and consumers
14 for New Mexico and its products and services;

15 F. foster, coordinate and support private efforts
16 in the promotion of New Mexico and its businesses, products and
17 services to consumers in other countries; and

18 G. work with persons outside of state government to
19 formulate a trade promotion plan for inclusion in the
20 department's five-year economic development and tourism plan.

21 Section 30. [NEW MATERIAL] MEXICAN AFFAIRS AND TRADE
22 DIVISION--DUTIES.--The Mexican affairs and trade division is
23 responsible for:

24 A. conducting and coordinating the state's
25 relations with the Republic of Mexico and the state of

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1 Chihuahua;

2 B. promoting New Mexico products and services in
3 Mexico;

4 C. coordinating activities of the department, the
5 cultural affairs department, the department of transportation,
6 the department of health, the department of environment, the
7 department of public safety, the New Mexico-Chihuahua
8 commission and the joint border research institute at New
9 Mexico state university as those activities relate to improving
10 New Mexico-Mexico relations and trade and encouraging or
11 funding appropriate border development;

12 D. establishing and annually updating the New
13 Mexico trade registry of New Mexico businesses and the products
14 and services they offer to consumers; and

15 E. providing periodic reports to the New Mexico
16 finance authority oversight committee on its activities and the
17 activities of the state pertaining to New Mexico-Mexico
18 relations, trade and border development.

19 Section 31. [NEW MATERIAL] MINORITY BUSINESS ASSISTANCE--
20 BUSINESS SERVICES DIVISION--DUTIES.--

21 A. As used in this section, "minority business"
22 means a business, with its principal place of business in New
23 Mexico:

24 (1) the majority ownership of which is held by
25 persons who are residents of New Mexico and who are African

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1 Americans, Hispanic Americans, Asian Americans or Native
2 Americans; and

3 (2) that employs twenty or fewer people.

4 B. The business services division shall develop and
5 implement a minority business assistance program to facilitate
6 the entrance of minority businesses, located throughout the
7 state, into the marketplace. As part of the development and
8 implementation of the program, the division shall:

9 (1) develop a process to define and identify
10 minority businesses that may benefit from additional assistance
11 and training in the areas of general business practices,
12 accounting principles, business ethics, technical expertise,
13 marketing and government procurement;

14 (2) develop a registry of well-established
15 businesses, persons within those businesses, retirees and other
16 persons that have the expertise and skills that may be needed
17 by minority businesses and that have expressed a desire to
18 volunteer as a mentor or otherwise to assist minority
19 businesses;

20 (3) develop an outreach and marketing program
21 so that minority businesses may become aware of the assistance
22 available and so that needed, experienced persons are aware of
23 the opportunity to mentor and assist minority businesses;

24 (4) develop training materials and in-house
25 training expertise; and

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1 (5) create a mentorship program in which
2 employees or agents of the division or department or volunteers
3 with business experience will visit minority businesses for the
4 purpose of training, mentoring, advising and otherwise
5 assisting the minority businesses in the development or
6 improvement of general business practices, accounting
7 principles, business ethics, technical expertise, marketing and
8 government procurement.

9 C. In performing its duties pursuant to this
10 section, the division may:

11 (1) to the extent money has been appropriated
12 for such purposes, develop a grant program for minority
13 businesses to acquire the expertise necessary to compete
14 effectively; and

15 (2) do all other things necessary and proper
16 to effectuate the purpose of this section.

17 D. All state agencies shall cooperate with the
18 division in carrying out the provisions of this section and
19 shall, as the opportunity arises, assist minority businesses
20 and encourage other businesses and persons to register as
21 volunteers pursuant to this section.

22 Section 32. [NEW MATERIAL] MINORITY BUSINESS ASSISTANCE
23 FUND--CREATED.--The "minority business assistance fund" is
24 created as a nonreverting fund in the state treasury. The fund
25 consists of appropriations, gifts, grants, donations, bequests
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1 and income from investment of the fund. Money in the fund is
2 subject to appropriation by the legislature to the department
3 for the purposes of carrying out the provisions of Section 31
4 of the Commerce and Economic Development Department Act.

5 Disbursements from the fund shall be made on warrant of the
6 secretary of finance and administration pursuant to vouchers
7 signed by the secretary of commerce and economic development.

8 Section 33. [NEW MATERIAL] REGULATION AND LICENSING
9 SUSPENSE ACCOUNTS.--The administrative services division shall
10 establish such suspense accounts as necessary to account for
11 money received by the department from activities of the
12 construction industries division, financial institutions
13 division, manufactured housing division, securities division or
14 other departmental unit for fees, licenses and penalties for
15 which the department may owe a refund. At the end of each
16 month, all money in the accounts, except for an amount
17 determined by the division to be necessary to reserve for
18 refunds, shall be credited to the general fund.

19 Section 34. [NEW MATERIAL] MORTGAGE REGULATORY FUND--
20 CREATED.--

21 A. The "mortgage regulatory fund" is created as a
22 nonreverting fund in the state treasury and shall be
23 administered by the financial institutions division of the
24 department. The fund shall consist of application, licensing,
25 renewal, examination, investigation and any other fees received

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1 that are associated with the costs of administering the New
2 Mexico Mortgage Loan Originator Licensing Act, fees specified
3 in Subsection E of Section 58-21-5 NMSA 1978 and money that is
4 appropriated, donated or otherwise accrues to the fund. Money
5 in the fund shall be invested by the state investment officer
6 in the manner that land grant permanent funds are invested
7 pursuant to Chapter 6, Article 8 NMSA 1978. Income from
8 investment of the fund shall be credited to the fund.

9 B. Money in the mortgage regulatory fund is
10 appropriated to the financial institutions division to carry
11 out the provisions of the New Mexico Mortgage Loan Originator
12 Licensing Act and the Mortgage Loan Company Act.

13 C. Money shall be disbursed from the mortgage
14 regulatory fund only on warrant of the secretary of finance and
15 administration pursuant to vouchers signed by the director of
16 the financial institutions division or the director's
17 authorized representative.

18 Section 35. Section 3-60B-4 NMSA 1978 (being Laws 1985,
19 Chapter 88, Section 4, as amended) is amended to read:

20 "3-60B-4. MAIN STREET PROGRAM--CREATED--COORDINATOR--
21 POWERS AND DUTIES.--

22 A. [~~There is created~~] The "main street program" is
23 created in the commerce and economic development department.
24 The secretary of [~~the~~] commerce and economic development
25 [~~department~~] shall employ a coordinator to oversee the program.

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B. The coordinator shall:

(1) carry out state responsibilities pursuant to contract with the national main street center of the national trust for historic preservation;

(2) coordinate activities of the program in consultation with the historic preservation division of the ~~[office of]~~ cultural affairs department;

(3) advise the New Mexico community development council on the development of criteria for requests for proposals and selection of local government grantees for the program to be funded through community development block grants;

(4) monitor the progress of main street projects;

(5) assist local main street project managers; and

(6) perform other duties necessary to carry out the provisions of the Main Street Act."

Section 36. Section 3-60C-3 NMSA 1978 (being Laws 2007, Chapter 103, Section 3, as amended) is amended to read:

"3-60C-3. DEFINITIONS.--As used in the Main Street Revolving Loan Act:

A. "committee" or "commission" means the ~~[main street revolving loan committee]~~ economic development and tourism commission;

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1 B. "division" means the historic preservation
2 division of the cultural affairs department;

3 C. "eligible property" means a site, structure,
4 building or object that is subject to the Main Street Act or
5 otherwise found pursuant to rule of the [~~committee~~] commission
6 to merit preservation pursuant to the Main Street Revolving
7 Loan Act;

8 D. "fund" means the main street revolving loan
9 fund;

10 E. "lending institution" means a bank, savings and
11 loan association, credit union or nonprofit organization with
12 lending programs as part of its bylaws; and

13 F. "property owner" means the sole owner, joint
14 owner, owner in partnership or an owner of a leasehold interest
15 with a term of five years or longer of an eligible property."

16 Section 37. Section 3-60C-4 NMSA 1978 (being Laws 2007,
17 Chapter 103, Section 4, as amended) is amended to read:

18 "3-60C-4. [~~MAIN STREET REVOLVING LOAN COMMITTEE--~~
19 ~~COMMITTEE~~] COMMISSION AND DIVISION DUTIES.--

20 [A. ~~The "main street revolving loan committee" is~~
21 ~~created, consisting of six members as follows:~~

22 (1) ~~the director of the division or the~~
23 ~~director's designee;~~

24 (2) ~~the coordinator of the main street program~~
25 ~~under the Main Street Act or the coordinator's designee;~~

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1 ~~(3) the chair of the cultural properties~~
2 ~~review committee or the chair's designee;~~

3 ~~(4) the director of the local government~~
4 ~~division of the department of finance and administration or the~~
5 ~~director's designee;~~

6 ~~(5) a member appointed by the governor with~~
7 ~~expertise in small loans; and~~

8 ~~(6) the chair of the board of directors of~~
9 ~~friends of New Mexico mainstreet, inc., or the chair's~~
10 ~~designee.~~

11 ~~B. Public members of the committee shall not be~~
12 ~~paid but shall be reimbursed for per diem and mileage pursuant~~
13 ~~to the Per Diem and Mileage Act.~~

14 ~~C. The committee shall:~~

15 ~~(1) elect a chair and such other officers as~~
16 ~~it deems necessary;~~

17 ~~(2) meet at the call of the chair but no less~~
18 ~~than four times per year;~~

19 ~~(3) by rule]~~

20 A. The economic development and tourism commission
21 shall promulgate rules to:

22 (1) establish eligibility criteria for
23 properties and owners, establish procedures to govern the
24 application outreach and marketing of the loan program and
25 promulgate such other rules as are necessary to carry out the

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1 provisions of the Main Street Revolving Loan Act;

2 [~~(4)~~] (2) after considering the
3 recommendations of the division, make awards of loans or loan
4 subsidies; and

5 [~~(5)~~] (3) approve expenditures by the division
6 for marketing, managing and administering the loan program.

7 [~~D.~~] B. A member of the [~~committee~~] commission may
8 participate in a meeting of the [~~committee~~] commission by means
9 of a conference telephone or other similar communications
10 equipment as provided in the Open Meetings Act. Participation
11 by conference telephone or other similar communications
12 equipment shall constitute presence in person at a meeting.

13 [~~E.~~] C. The division shall:

14 (1) review applications for loans and loan
15 subsidies and make recommendations to the [~~committee~~]
16 commission;

17 (2) administer all loans and loan subsidies;

18 (3) serve as staff to the [~~committee~~]
19 commission; and

20 (4) report annually to the governor, the
21 legislative finance committee and the legislature on loans
22 made, loan payments received and all other activities conducted
23 pursuant to the Main Street Revolving Loan Act."

24 Section 38. Section 5-10-3 NMSA 1978 (being Laws 1993,
25 Chapter 297, Section 3, as amended) is amended to read:

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1 "5-10-3. DEFINITIONS.--As used in the Local Economic
2 Development Act:

3 A. "arts and cultural district" means a developed
4 district of public and private uses that is created pursuant to
5 the Arts and Cultural District Act;

6 B. "cultural facility" means a facility that is
7 owned by the state, a county, a municipality or a qualifying
8 entity that serves the public through preserving, educating and
9 promoting the arts and culture of a particular locale,
10 including theaters, museums, libraries, galleries, cultural
11 compounds, educational organizations, performing arts venues
12 and organizations, fine arts organizations, studios and media
13 laboratories and live-work housing facilities;

14 C. "department" means the commerce and economic
15 development department;

16 D. "economic development project" or "project"
17 means the provision of direct or indirect assistance to a
18 qualifying entity by a local or regional government and
19 includes the purchase, lease, grant, construction,
20 reconstruction, improvement or other acquisition or conveyance
21 of land, buildings or other infrastructure; public works
22 improvements essential to the location or expansion of a
23 qualifying entity; payments for professional services contracts
24 necessary for local or regional governments to implement a plan
25 or project; the provision of direct loans or grants for land,

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1 buildings or infrastructure; technical assistance to cultural
2 facilities; loan guarantees securing the cost of land,
3 buildings or infrastructure in an amount not to exceed the
4 revenue that may be derived from the municipal infrastructure
5 gross receipts tax or the county infrastructure gross receipts
6 tax; grants for public works infrastructure improvements
7 essential to the location or expansion of a qualifying entity;
8 grants or subsidies to cultural facilities; purchase of land
9 for a publicly held industrial park or a publicly owned
10 cultural facility; and the construction of a building for use
11 by a qualifying entity;

12 E. "governing body" means the city council, city
13 commission or board of trustees of a municipality or the board
14 of county commissioners of a county;

15 F. "local government" means a municipality or
16 county;

17 G. "municipality" means an incorporated city, town
18 or village;

19 H. "person" means an individual, corporation,
20 association, partnership or other legal entity;

21 I. "qualifying entity" means a corporation, limited
22 liability company, partnership, joint venture, syndicate,
23 association or other person that is one or a combination of two
24 or more of the following:

25 (1) an industry for the manufacturing,

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1 processing or assembling of agricultural or manufactured
2 products;

3 (2) a commercial enterprise for storing,
4 warehousing, distributing or selling products of agriculture,
5 mining or industry, but, other than as provided in Paragraph
6 (5) or (6) of this subsection, not including any enterprise for
7 sale of goods or commodities at retail or for distribution to
8 the public of electricity, gas, water or telephone or other
9 services commonly classified as public utilities;

10 (3) a business in which all or part of the
11 activities of the business involves the supplying of services
12 to the general public or to governmental agencies or to a
13 specific industry or customer, but, other than as provided in
14 Paragraph (5) of this subsection, not including businesses
15 primarily engaged in the sale of goods or commodities at
16 retail;

17 (4) an Indian nation, tribe or pueblo or a
18 federally chartered tribal corporation;

19 (5) a telecommunications sales enterprise that
20 makes the majority of its sales to persons outside New Mexico;

21 (6) a facility for the direct sales by growers
22 of agricultural products, commonly known as farmers' markets;

23 (7) a business that is the developer of a
24 metropolitan redevelopment project; and

25 (8) a cultural facility; and

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1 J. "regional government" means any combination of
2 municipalities and counties that enter into a joint powers
3 agreement to provide for economic development projects pursuant
4 to a plan adopted by all parties to the joint powers
5 agreement."

6 Section 39. Section 6-25-3 NMSA 1978 (being Laws 2003,
7 Chapter 349, Section 3, as amended) is amended to read:

8 "6-25-3. DEFINITIONS.--As used in the Statewide Economic
9 Development Finance Act:

10 A. "authority" means the New Mexico finance
11 authority;

12 B. "department" means the commerce and economic
13 development department;

14 C. "community development entity" means an entity
15 designed to take advantage of the federal new markets tax
16 credit program;

17 D. "economic development assistance provisions"
18 means the economic development assistance provisions of
19 Subsection D of Article 9, Section 14 of the constitution of
20 New Mexico;

21 E. "project revenue bonds" means bonds, notes or
22 other instruments authorized in Section 6-25-7 NMSA 1978 and
23 issued by the authority pursuant to the Statewide Economic
24 Development Finance Act on behalf of eligible entities;

25 F. "economic development goal" means:

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1 (1) assistance to rural and underserved areas
2 designed to increase business activity;

3 (2) retention and expansion of existing
4 business enterprises;

5 (3) attraction of new business enterprises; or

6 (4) creation and promotion of an environment
7 suitable for the support of start-up and emerging business
8 enterprises within the state;

9 G. "economic development revolving fund bonds"
10 means bonds, notes or other instruments payable from the fund
11 and issued by the authority pursuant to the Statewide Economic
12 Development Finance Act;

13 H. "eligible entity" means a for-profit or not-for-
14 profit business enterprise, including a corporation, limited
15 liability company, partnership or other entity, determined by
16 the department to be engaged in an enterprise that serves an
17 economic development goal and is suitable for financing
18 assistance;

19 I. "federal new markets tax credit program" means
20 the tax credit program codified as Section 45D of the Internal
21 Revenue Code, as that section may be amended or renumbered, and
22 regulations issued pursuant to that section;

23 J. "financing assistance" means project revenue
24 bonds, loans, loan participations or loan guarantees provided
25 by the authority to or for eligible entities pursuant to the

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1 Statewide Economic Development Finance Act;

2 K. "fund" means the economic development revolving
3 fund;

4 L. "mortgage" means a mortgage, deed of trust or
5 pledge of any assets as a collateral security;

6 M. "opt-in agreement" means an agreement entered
7 into between the department and a qualifying county, a school
8 district and, if applicable, a qualifying municipality that
9 provides for county, school district and, if applicable,
10 municipal approval of a project, subject to compliance with all
11 local zoning, permitting and other land use rules, and for
12 payments in lieu of taxes to the qualifying county, school
13 district and, if applicable, qualifying municipality as
14 provided by the Statewide Economic Development Finance Act;

15 N. "payment in lieu of taxes" means the total
16 annual payment, including any state in-lieu payment, paid as
17 compensation for the tax impact of a project, in an amount
18 negotiated and determined in the opt-in agreement between the
19 department and the qualifying county, the school district and,
20 if applicable, the qualifying municipality, which payment shall
21 be distributed to the county, municipality and school district
22 in the same proportion as property tax revenues are normally
23 distributed to those recipients;

24 O. "standard project" means land, buildings,
25 improvements, machinery and equipment, operating capital and

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1 other personal property for which financing assistance is
2 provided for adequate consideration, taking into account the
3 anticipated quantifiable benefits of the standard project, for
4 use by an eligible entity as:

5 (1) industrial or manufacturing facilities;

6 (2) commercial facilities, including
7 facilities for wholesale sales and services;

8 (3) health care facilities, including
9 hospitals, clinics, laboratory facilities and related office
10 facilities;

11 (4) educational facilities, including schools;

12 (5) arts, entertainment or cultural
13 facilities, including museums, theaters, arenas or assembly
14 halls; and

15 (6) recreational and tourism facilities,
16 including parks, pools, trails, open space and equestrian
17 facilities;

18 P. "project" means a standard project or a state
19 project;

20 Q. "qualifying municipality or county" means a
21 municipality or county that enters into an opt-in agreement;

22 R. "quantifiable benefits" means a project's
23 advancement of an economic development goal as measured by a
24 variety of factors, including:

25 (1) the benefits an eligible entity contracts

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1 to provide, such as local hiring quotas, job training
2 commitments and installation of public facilities or
3 infrastructure; and

4 (2) other benefits such as the total number of
5 direct and indirect jobs created by the project, total amount
6 of annual salaries to be paid as a result of the project, total
7 gross receipts and occupancy tax collections, total property
8 tax collections, total state corporate and personal income tax
9 collections and other fee and revenue collections resulting
10 from the project;

11 S. "school district" means a school district where
12 a project is located that is exempt from property taxes
13 pursuant to the Statewide Economic Development Finance Act;

14 T. "state in-lieu payment" means an annual payment,
15 in an amount determined by the department, that will be
16 distributed to a qualifying county, a school district and, if
17 applicable, a qualifying municipality in the same proportion as
18 property tax revenues are normally distributed to those
19 recipients;

20 U. "state project" means land, buildings or
21 infrastructure for facilities to support new or expanding
22 eligible entities for which financing assistance is provided
23 pursuant to the economic development assistance provisions; and

24 V. "tax impact of a project" means the annual
25 reduction in property tax revenue to affected property tax

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1 revenue recipients directly resulting from the conveyance of a
2 project to the department."

3 Section 40. Section 12-9A-4 NMSA 1978 (being Laws 1993,
4 Chapter 257, Section 4) is amended to read:

5 "12-9A-4. INITIAL REVIEW--APPLICATION FEE.--Any group
6 seeking licensure or regulation of a profession or occupation
7 through creation of a new board or commission shall, upon
8 payment of an application fee not to exceed one thousand
9 dollars (\$1,000), request a review and evaluation of such
10 proposed licensure or regulation from the [~~regulation and~~
11 ~~licensing~~] commerce and economic development department, and
12 the department shall conduct [~~such~~] a review and evaluation and
13 provide a report to the legislative finance committee so it may
14 conduct a hearing or consider action on the proposed licensure
15 or regulation. In conducting a review and evaluation, the
16 department shall consider the criteria in Section [~~3 of the~~
17 ~~Sunrise Act~~] 12-9A-3 NMSA 1978 and may require and use any
18 information listed in Section [~~5 of that act~~] 12-9A-5 NMSA
19 1978."

20 Section 41. Section 12-9A-6 NMSA 1978 (being Laws 1993,
21 Chapter 257, Section 6) is amended to read:

22 "12-9A-6. RULEMAKING AUTHORITY.--The [~~regulation and~~
23 ~~licensing~~] commerce and economic development department may
24 adopt and promulgate rules to implement the provisions of the
25 Sunrise Act and assess costs among boards covered by the

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1 Uniform Licensing Act."

2 Section 42. Section 12-13A-1 NMSA 1978 (being Laws 2003,
3 Chapter 9, Section 1) is amended to read:

4 "12-13A-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article
5 13A NMSA 1978 may be cited as the "New Mexico-Chihuahua
6 Commission Act"."

7 Section 43. Section 12-13A-4 NMSA 1978 (being Laws 2003,
8 Chapter 9, Section 4) is amended to read:

9 "12-13A-4. NEW MEXICO-CHIHUAHUA COMMISSION CREATED--
10 MEMBERS--ADMINISTRATION.--

11 A. The "New Mexico-Chihuahua commission" is created
12 and is administratively attached to the commerce and economic
13 development department.

14 B. The members of the commission representing New
15 Mexico shall be:

16 (1) the governor of New Mexico;

17 (2) the secretary of commerce and economic
18 development;

19 [~~(3)~~] ~~the secretary of tourism;~~

20 ~~(4)]~~ (3) other state officials as assigned by
21 the governor; and

22 [~~(5)]~~ (4) no more than ten members of the
23 public appointed by the governor of New Mexico.

24 C. The members of the commission representing
25 Chihuahua shall be appointed or assigned according to the

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1 customary procedure of the executive branch of the government
2 of that state.

3 D. The commerce and economic development department
4 shall provide administrative assistance to the commission as
5 needed.

6 E. The commerce and economic development department
7 shall keep records of commission proceedings.

8 F. The co-chairs of the commission shall be the
9 governors of New Mexico and Chihuahua.

10 G. Meetings of the commission shall be at the call
11 of the co-chairs or pursuant to the request of a majority of
12 the members of the commission.

13 H. Terms for public members of the commission
14 appointed by the governor of New Mexico shall be for two years
15 with reappointment to additional terms at the discretion of the
16 governor.

17 I. A vacancy in a term of a commission member
18 representing New Mexico shall be filled by appointment by the
19 governor of New Mexico for the remainder of the term of the
20 position vacated.

21 J. The public members of the commission appointed
22 by the governor of New Mexico [~~shall~~] are entitled to receive
23 per diem and mileage pursuant to the Per Diem and Mileage Act
24 for performance of official duties required by the commission
25 and shall receive no other compensation, perquisite or

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1 allowance."

2 Section 44. Section 12-13B-1 NMSA 1978 (being Laws 2009,
3 Chapter 108, Section 1) is amended to read:

4 "12-13B-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article
5 13B NMSA 1978 may be cited as the "New Mexico-Sonora Commission
6 Act"."

7 Section 45. Section 12-13B-3 NMSA 1978 (being Laws 2009,
8 Chapter 108, Section 3) is amended to read:

9 "12-13B-3. NEW MEXICO-SONORA COMMISSION CREATED--
10 MEMBERS--ADMINISTRATION.--

11 A. The "New Mexico-Sonora commission" is created
12 and is administratively attached to the commerce and economic
13 development department.

14 B. The members of the commission representing New
15 Mexico shall be:

16 (1) the governor of New Mexico;

17 (2) the secretary of commerce and economic
18 development;

19 [~~(3)~~] ~~the secretary of tourism;~~

20 ~~(4)]~~ (3) other state officials as assigned by
21 the governor; and

22 [~~(5)]~~ (4) no more than nine members of the
23 public appointed by the governor of New Mexico.

24 C. The members of the commission representing
25 Sonora shall be appointed or assigned according to regulations

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1 and procedures governing commissions in that state.

2 D. The commerce and economic development department
3 shall provide administrative assistance to the commission as
4 needed.

5 E. The commerce and economic development department
6 shall keep a record of commission proceedings.

7 F. The co-chairs of the commission shall be the
8 governors of New Mexico and Sonora.

9 G. Meetings of the commission shall be at the call
10 of the co-chairs or pursuant to the request of a majority of
11 the members of the commission.

12 H. Terms for public members of the commission
13 appointed by the governor of New Mexico shall be for two years
14 with reappointment to additional terms at the discretion of the
15 governor.

16 I. A vacancy in a term of a commission member
17 representing New Mexico shall be filled by appointment by the
18 governor of New Mexico for the remainder of the term of the
19 position vacated.

20 J. The public members of the commission appointed
21 by the governor of New Mexico [~~shall~~] are entitled to receive
22 per diem and mileage pursuant to the Per Diem and Mileage Act
23 for performance of official duties required by the commission
24 and shall receive no other compensation, perquisite or
25 allowance."

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1 Section 46. Section 13-4-10.1 NMSA 1978 (being Laws 2009,
2 Chapter 206, Section 2) is amended to read:

3 "13-4-10.1. DEFINITIONS.--As used in the Public Works
4 Minimum Wage Act:

5 A. "director" means the director of the division;

6 B. "division" means the labor relations division of
7 the ~~[workforce solutions]~~ commerce and economic development
8 department;

9 C. "fringe benefit" means payments made by a
10 contractor, subcontractor, employer or person acting as a
11 contractor, if the payment has been authorized through a
12 negotiated process or by a collective bargaining agreement,
13 for:

- 14 (1) holidays;
- 15 (2) time off for sickness or injury;
- 16 (3) time off for personal reasons or vacation;
- 17 (4) bonuses;
- 18 (5) authorized expenses incurred during the
19 course of employment;
- 20 (6) health, life and accident or disability
21 insurance;
- 22 (7) profit-sharing plans;
- 23 (8) contributions made on behalf of an
24 employee to a retirement or other pension plan; and
- 25 (9) any other compensation paid to an employee

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1 other than wages;

2 D. "labor organization" means an organization of
3 any kind, or an agency or employee representation committee or
4 plan, in which employees participate and that exists for the
5 purpose, in whole or in part, of dealing with employers
6 concerning grievances, labor disputes, wages, rates of pay,
7 hours of employment or conditions of work; and

8 E. "wage" means the basic hourly rate of pay."

9 Section 47. Section 13-4D-3 NMSA 1978 (being Laws 1992,
10 Chapter 74, Section 3, as amended) is amended to read:

11 "13-4D-3. DEFINITIONS.--As used in the Public Works
12 Apprenticeship and Training Act:

13 A. "approved apprenticeship and training programs"
14 means building trades apprenticeship and training programs in
15 New Mexico that are recognized by the bureau of apprenticeship
16 and training of the United States department of labor or the
17 New Mexico apprenticeship council;

18 B. "compliance statement" means a monthly record of
19 an employer's contributions paid into an approved apprenticeship
20 and training program in New Mexico or into the public works
21 apprenticeship and training fund;

22 C. "director" or "division" means the labor
23 relations division of the [~~workforce solutions~~] commerce and
24 economic development department; and

25 D. "employer" means a contractor, subcontractor or

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1 any person acting as a contractor on a public works project, as
2 that term is defined in the provisions of the Construction
3 Industries Licensing Act."

4 Section 48. Section 14-4A-5 NMSA 1978 (being Laws 2005,
5 Chapter 244, Section 5) is amended to read:

6 "14-4A-5. SMALL BUSINESS REGULATORY ADVISORY COMMISSION
7 CREATED--MEMBERSHIP--POWERS AND DUTIES.--

8 A. The "small business regulatory advisory
9 commission" is created. The commission shall consist of nine
10 members who are current or former small business owners, five
11 appointed by the governor and two each appointed by the speaker
12 of the house of representatives and the president pro tempore
13 of the senate. Each member shall be from a different
14 geographic region of the state. Members shall serve two-year
15 terms. A member shall not serve more than three consecutive
16 terms. Members shall name the chairperson of the commission.
17 The commission shall meet at the call of the chairperson. A
18 majority of the members constitutes a quorum for the conduct of
19 business. [~~Members are entitled to per diem and mileage as
20 provided in the Per Diem and Mileage Act and shall receive no
21 other compensation, perquisite or allowance.~~]

22 B. The commission is administratively attached to
23 the business services division of the commerce and economic
24 development department, and staff for the commission shall be
25 provided by the department.

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C. The commission may:

- (1) provide state agencies with input regarding proposed rules that may adversely affect small business;
- (2) consider requests from small business owners to review rules adopted by an agency;
- (3) review rules promulgated by an agency to determine whether a rule places an unnecessary burden on small business and make recommendations to the agency to mitigate the adverse effects; and
- (4) provide an annual evaluation report to the governor and the legislature, including recommendations and evaluations of agencies regarding regulatory fairness for small businesses.

D. The commission does not have authority to:

- (1) interfere with, modify, prevent or delay an agency or administrative enforcement action;
- (2) intervene in legal actions; or
- (3) subpoena witnesses to testify or to produce documents, but it may request witnesses to voluntarily testify or produce documents."

Section 49. Section 16-6-5 NMSA 1978 (being Laws 1977, Chapter 245, Section 18, as amended) is amended to read:

"16-6-5. STATE FAIR COMMISSION ADMINISTRATIVELY ATTACHED TO [TOURISM] COMMERCE AND ECONOMIC DEVELOPMENT DEPARTMENT.--The

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1 state fair commission is administratively attached, as defined
2 in the Executive Reorganization Act, to the [~~tourism~~] commerce
3 and economic development department."

4 Section 50. Section 21-2-6 NMSA 1978 (being Laws 1978,
5 Chapter 54, Section 1, as amended) is amended to read:

6 "21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND
7 PERSONS.--

8 A. The [~~state commission~~] higher education
9 department in carrying out its planning activities for post-
10 secondary education shall consult with and invite the active
11 participation of:

12 (1) representatives of post-secondary
13 educational institutions of the several types enumerated in
14 Paragraph (2) of Subsection A of Section 21-2-2 NMSA 1978;

15 (2) the public education commission;

16 (3) the public education department;

17 (4) representatives of public and private
18 elementary and secondary schools;

19 (5) the secretary of [~~labor~~];

20 ~~(6) the tourism department]~~ commerce and
21 economic development;

22 [~~(7)~~] (6) the apprenticeship council;

23 [~~(8) the economic development department~~];

24 ~~(9)~~ (7) the state advisory council on
25 vocational education;

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1 [~~(10)~~] (8) the secretary of finance and
2 administration or the secretary's designee;

3 [~~(11)~~] (9) persons familiar with the education
4 needs of persons with a disability and persons disadvantaged by
5 economic, racial or ethnic status;

6 [~~(12)~~] (10) representatives of business,
7 industry, organized labor and agriculture;

8 [~~(13)~~] (11) the general public; and

9 [~~(14)~~] (12) private in-state post-secondary
10 institutions.

11 B. Whenever the planning activities carried out
12 under the provisions of Section 21-2-5 NMSA 1978 are concerned
13 with the types of post-secondary education enumerated in
14 Subparagraphs (a) through (e) of Paragraph (1) of Subsection A
15 of Section 21-2-2 NMSA 1978, the [~~state commission~~] commerce
16 and economic development department shall directly involve the
17 public education commission and the public education department
18 in all planning activities."

19 Section 51. Section 21-19-10 NMSA 1978 (being Laws 1983,
20 Chapter 299, Section 4, as amended) is amended to read:

21 "21-19-10. COMMUNITY DEVELOPMENT ASSISTANCE.--The
22 commerce and economic development department shall provide
23 assistance to political subdivisions of the state so that they
24 can construct or implement projects necessary to provide
25 services that will encourage the location of industry in the

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1 political subdivisions. The department shall, for this
2 purpose, make low-interest loans to political subdivisions of
3 the state with the approval of the economic development and
4 tourism commission and after coordination with the local
5 government division of the department of finance and
6 administration pursuant to the New Mexico Community Assistance
7 Act."

8 Section 52. Section 9-26-14 NMSA 1978 (being Laws 2007,
9 Chapter 200, Section 14) is recompiled in Chapter 21, Article
10 21A NMSA 1978 and is amended to read:

11 "DISCLOSURE OF INFORMATION.--To the extent permitted by
12 federal law, upon the written request of a corporation
13 organized pursuant to the Educational Assistance Act, the
14 commerce and economic development department shall furnish the
15 last known address and the date of that address of every person
16 certified to the department as being an absent obligor of an
17 educational debt that is due and owed to the corporation or
18 that the corporation has lawfully contracted to collect. The
19 corporation and its officers and employees shall use such
20 information only for the purpose of enforcing the educational
21 debt obligation of such absent obligors and shall not disclose
22 that information or use it for any other purpose."

23 Section 53. Section 28-1-2 NMSA 1978 (being Laws 1969,
24 Chapter 196, Section 2, as amended) is amended to read:

25 "28-1-2. DEFINITIONS.--As used in the Human Rights Act:

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1 A. "person" means one or more individuals, a
2 partnership, association, organization, corporation, joint
3 venture, legal representative, trustees, receivers or the state
4 and all of its political subdivisions;

5 B. "employer" means any person employing four or
6 more persons and any person acting for an employer;

7 C. "commission" means the human rights commission;

8 D. "director" or "bureau" means the human rights
9 bureau of the labor relations division of the [~~workforce~~
10 ~~solutions~~] commerce and economic development department;

11 E. "employee" means any person in the employ of an
12 employer or an applicant for employment;

13 F. "labor organization" means any organization that
14 exists for the purpose in whole or in part of collective
15 bargaining or of dealing with employers concerning grievances,
16 terms or conditions of employment or of other mutual aid or
17 protection in connection with employment;

18 G. "employment agency" means any person regularly
19 undertaking with or without compensation to procure
20 opportunities to work or to procure, recruit or refer
21 employees;

22 H. "public accommodation" means any establishment
23 that provides or offers its services, facilities,
24 accommodations or goods to the public, but does not include a
25 bona fide private club or other place or establishment that is

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1 by its nature and use distinctly private;

2 I. "housing accommodation" means any building or
3 portion of a building that is constructed or to be constructed
4 ~~[which]~~ and that is used or intended for use as the residence
5 or sleeping place of ~~[any individual]~~ a person;

6 J. "real property" means lands, leaseholds or
7 commercial or industrial buildings, whether constructed or to
8 be constructed, offered for sale or rent, and any land rented
9 or leased for the use, parking or storage of house trailers;

10 K. "secretary" means the secretary of ~~[workforce~~
11 ~~solutions]~~ commerce and economic development;

12 L. "unlawful discriminatory practices" means those
13 unlawful practices and acts specified in Section 28-1-7 NMSA
14 1978;

15 M. "physical or mental handicap" means a physical
16 or mental impairment that substantially limits one or more of a
17 person's major life activities. A person is also considered to
18 be physically or mentally handicapped if the person has a
19 record of a physical or mental handicap or is regarded as
20 having a physical or mental handicap;

21 N. "major life activities" means functions such as
22 caring for one's self, performing manual tasks, walking,
23 seeing, hearing, speaking, breathing, learning and working;

24 O. "applicant for employment" means a person
25 applying for a position as an employee;

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1 P. "sexual orientation" means heterosexuality,
2 homosexuality or bisexuality, whether actual or perceived; and

3 Q. "gender identity" means a person's
4 self-perception, or perception of that person by another, of
5 the person's identity as a male or female based upon the
6 person's appearance, behavior or physical characteristics that
7 are in accord with or opposed to the person's physical anatomy,
8 chromosomal sex or sex at birth."

9 Section 54. Section 30-7-3 NMSA 1978 (being Laws 1975,
10 Chapter 149, Section 1, as amended) is amended to read:

11 "30-7-3. UNLAWFUL CARRYING OF A FIREARM IN LICENSED
12 LIQUOR ESTABLISHMENTS.--

13 A. Unlawful carrying of a firearm in an
14 establishment licensed to dispense alcoholic beverages consists
15 of carrying a loaded or unloaded firearm on any premises
16 licensed by the [~~regulation and licensing~~] alcohol and gaming
17 division of the commerce and economic development department
18 for the dispensing of alcoholic beverages except:

19 (1) by a law enforcement officer in the lawful
20 discharge of the officer's duties;

21 (2) by a law enforcement officer who is
22 certified pursuant to the Law Enforcement Training Act acting
23 in accordance with the policies of the officer's law
24 enforcement agency;

25 (3) by the owner, lessee, tenant or operator

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1 of the licensed premises or the owner's, lessee's, tenant's or
2 operator's agents, including privately employed security
3 personnel during the performance of their duties;

4 (4) by a person carrying a concealed handgun
5 who is in possession of a valid concealed handgun license for
6 that gun pursuant to the Concealed Handgun Carry Act; provided
7 that the licensed establishment does not sell alcoholic
8 beverages for consumption on the premises;

9 (5) by a person in that area of the licensed
10 premises usually and primarily rented on a daily or short-term
11 basis for sleeping or residential occupancy, including hotel or
12 motel rooms;

13 (6) by a person on that area of a licensed
14 premises primarily used for vehicular traffic or parking; or

15 (7) for the purpose of temporary display,
16 provided that the firearm is:

17 (a) made completely inoperative before
18 it is carried onto the licensed premises and remains
19 inoperative while it is on the licensed premises; and

20 (b) under the control of the licensee or
21 an agent of the licensee while the firearm is on the licensed
22 premises.

23 B. Whoever commits unlawful carrying of a firearm
24 in an establishment licensed to dispense alcoholic beverages is
25 guilty of a fourth degree felony."

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1 Section 55. Section 30-49-10 NMSA 1978 (being Laws 1993,
2 Chapter 244, Section 10) is amended to read:

3 "30-49-10. MONITORED COMPLIANCE--INSPECTIONS.--The
4 alcohol and gaming division of the [~~regulation and licensing~~]
5 commerce and economic development department and the
6 appropriate law enforcement authorities in each county and
7 municipality shall conduct random, unannounced inspections of
8 facilities where tobacco products are sold to ensure compliance
9 with the provisions of the Tobacco Products Act."

10 Section 56. Section 40-5A-3 NMSA 1978 (being Laws 1995,
11 Chapter 25, Section 3, as amended) is amended to read:

12 "40-5A-3. DEFINITIONS.--As used in the Parental
13 Responsibility Act:

14 A. "applicant" means an obligor who is applying for
15 issuance of a license;

16 B. "board" means:

17 (1) the construction industries commission,
18 the construction industries division and the electrical bureau,
19 mechanical bureau and general construction bureau of the
20 construction industries division of the [~~regulation and~~
21 ~~licensing~~] commerce and economic development department;

22 (2) the manufactured housing committee and
23 manufactured housing division of the [~~regulation and licensing~~]
24 commerce and economic development department;

25 (3) a board, commission or agency that

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1 administers a profession or occupation licensed pursuant to
2 Chapter 61 NMSA 1978;

3 (4) any other state agency to which the
4 Uniform Licensing Act is applied by law;

5 (5) a licensing board or other authority that
6 issues a license, certificate, registration or permit to engage
7 in a profession or occupation regulated in New Mexico;

8 (6) the department of game and fish;

9 (7) the motor vehicle division of the taxation
10 and revenue department; or

11 (8) the alcohol and gaming division of the
12 [~~regulation and licensing~~] commerce and economic development
13 department;

14 C. "certified list" means a verified list that
15 includes the names, social security numbers and last known
16 addresses of obligors not in compliance;

17 D. "compliance" means that:

18 (1) an obligor is no more than thirty days in
19 arrears in payment of amounts required to be paid pursuant to
20 an outstanding judgment and order for support; and

21 (2) an obligor has, after receiving
22 appropriate notice, complied with subpoenas or warrants
23 relating to paternity or child support proceedings;

24 E. "department" means the human services
25 department;

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1 F. "judgment and order for support" means the
2 judgment entered against an obligor by the district court or a
3 tribal court in a case enforced by the department pursuant to
4 Title IV-D of the Social Security Act;

5 G. "license" means a liquor license or other
6 license, certificate, registration or permit issued by a board
7 that a person is required to have to engage in a profession or
8 occupation in New Mexico; "license" includes a commercial
9 driver's license, driver's license and recreational licenses,
10 including hunting, fishing or trapping licenses;

11 H. "licensee" means an obligor to whom a license
12 has been issued; and

13 I. "obligor" means the person who has been
14 ordered to pay child or spousal support pursuant to a
15 judgment and order for support."

16 Section 57. Section 50-14-2 NMSA 1978 (being Laws
17 1999, Chapter 260, Section 2, as amended) is amended to read:

18 "50-14-2. DEFINITIONS.--As used in the Workforce
19 Development Act:

20 A. "board" means the state workforce development
21 board;

22 B. "chief elected official" means the chief
23 elected executive officer of a unit of general local
24 government in a local area, and in a case in which a local
25 area includes more than one unit of general local government,

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1 "chief elected official" means the person designated under
2 the agreement described in Section 117 (c)(1)(B) of the
3 federal Workforce Investment Act of 1998;

4 C. "employment training program" means a program
5 or a part of a program, regardless of which state or local
6 agency administers it, that has as its primary purpose
7 assisting persons in obtaining or enhancing employment;

8 D. "local board" means a local work force
9 development board; and

10 E. "office" or "division" means the work force
11 transition services division of the [~~workforce solutions~~]
12 commerce and economic development department."

13 Section 58. Section 50-14-4 NMSA 1978 (being Laws
14 1999, Chapter 260, Section 4, as amended) is amended to read:

15 "50-14-4. DUTIES OF THE BOARD.--

16 A. The board shall assist the governor in:

17 (1) developing a five-year state plan that
18 shall be updated annually and revised in accordance with the
19 requirements of the federal Workforce Investment Act of 1998;

20 (2) developing and improving the statewide
21 activities funded pursuant to the workforce investment system
22 and the one-stop delivery system, including development of
23 linkages to ensure coordination and nonduplication among the
24 programs and activities described in the federal Workforce
25 Investment Act of 1998;

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- 1 (3) reviewing local plans;
- 2 (4) commenting annually on the measures
- 3 taken pursuant to Section 113(b)(14) of the federal Carl D.
- 4 Perkins Vocational and Applied Technology Education Act;
- 5 (5) developing allocation formulas for adult
- 6 and youth employment training program funds to local areas in
- 7 accordance with the federal Workforce Investment Act of 1998;
- 8 (6) developing comprehensive state
- 9 performance measures to assess the effectiveness of work
- 10 force investment activities pursuant to the federal Workforce
- 11 Investment Act of 1998;
- 12 (7) designating local work force development
- 13 areas;
- 14 (8) developing the statewide employment
- 15 statistics system; and
- 16 (9) preparing reports and applications
- 17 required for submission to the federal government.

18 B. The board shall also:

- 19 (1) review, evaluate and report annually on
- 20 the performance of all work force development activities
- 21 administered by state agencies involved with work force
- 22 development;
- 23 (2) develop linkages with the public
- 24 education department and the ~~[commission on]~~ higher education
- 25 department to ensure coordination and nonduplication of

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1 vocational education, apprenticeship, adult education,
2 employment training programs and vocational rehabilitation
3 programs with other work force development and training
4 programs; and

5 (3) provide policy advice regarding the
6 application of federal or state law that pertains to work
7 force development.

8 C. To assist the board in fulfilling its duties,
9 it is authorized to establish committees, one of which shall
10 be a "coordination oversight committee". Except as provided
11 for the coordination oversight committee in Subsections D and
12 E of this section, the board shall appoint committee members
13 and assign duties to committees as the board deems
14 appropriate. The chair of the board shall appoint committee
15 chairs from among members of the board.

16 D. The coordination oversight committee shall
17 consist of the secretaries of commerce and economic
18 development, human services, [~~labor and~~] public education and
19 higher education; a representative from community colleges;
20 [~~a representative from the commission on higher education~~] a
21 representative of labor; two legislators from different
22 political parties, one from the senate and one from the house
23 of representatives; the director of the [~~office~~] division;
24 and the committee chair.

25 E. The duties of the coordination oversight

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1 committee include the following:

2 (1) the secretaries of commerce and economic
3 development [~~labor~~] and human services shall propose five-,
4 ten- and fifteen-year regional and statewide strategic plans
5 for employment growth and training in New Mexico for the
6 committee's consideration and possible recommendation for
7 approval to the board as part of the state plan;

8 (2) the [~~secretary~~] secretaries of public
9 education and [~~the representative from the commission on~~]
10 higher education shall propose appropriate education plans
11 for secondary education that address the strategic plans
12 proposed by the secretaries of commerce and economic
13 development and human services [~~and labor~~] for the
14 committee's consideration and possible recommendation for
15 approval to the board as part of the state plan;

16 (3) the committee's proposals to the board
17 shall facilitate a career pathways culture and, at a minimum,
18 include reference to foundation skills as developed by the
19 United States secretary of labor's commission on achieving
20 necessary skills, a job analysis that the commerce and
21 economic development department shall produce after
22 consultation with incumbent workers and employers, an
23 available skills assessment and training targets;

24 (4) the [~~board~~] committee member from the
25 community colleges shall solicit input from the community

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1 college constituency and work with regional and statewide
2 businesses and other partners and the commerce and economic
3 development department to create career pathways and align
4 curriculum and facilitate plans with the commerce and
5 economic development department and human services department
6 [~~and labor department~~] strategic plans;

7 (5) the committee shall, after consultation
8 with the state chief information officer, develop and propose
9 strategies for coordination of information technology for the
10 purposes of providing participants access to all appropriate
11 state services; collecting and managing data to allow
12 reporting and analysis of uniform performance data related to
13 all appropriate employment training programs; and sharing and
14 integrating appropriate work force data across agencies and
15 appropriate nongovernmental partners for identifying needs,
16 setting policy and coordinating strategies;

17 (6) the committee shall recommend for the
18 board's approval the coordination of program designs to avoid
19 duplication or unproductive segmentation of services; and

20 (7) the committee shall recommend for the
21 board's approval the coordination of state agency efforts to
22 progress toward comprehensive, customer-driven one-stop
23 centers through co-location of mandatory and recommended
24 partner service delivery points for work force development.

25 F. All state agencies involved in work force

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1 development activities shall annually submit to the board for
2 its review and potential inclusion in the five-year plan
3 their goals, objectives and policies. The plan shall include
4 recommendations to the legislature on the modification,
5 consolidation, initiation or elimination of work force
6 training and education programs in the state."

7 Section 59. Section 50-14-9 NMSA 1978 (being Laws
8 2005, Chapter 111, Section 10, as amended) is amended to
9 read:

10 "50-14-9. WORK FORCE TRANSITION SERVICES DIVISION.--

11 A. The "work force transition services division"
12 is created in the [~~workforce solutions~~] commerce and economic
13 development department.

14 B. The division shall be the recipient of all
15 grants from the United States pursuant to the federal
16 Workforce Investment Act of 1998 and shall disburse those
17 grants consistent with that act and the Workforce Development
18 Act.

19 C. The division shall administer the provisions
20 of the Workforce Development Act and is the governor's
21 designee for the state with authority to administer New
22 Mexico's program pursuant to the federal Workforce Investment
23 Act of 1998. In performance of that duty and the duties set
24 forth in Section 50-14-10 NMSA 1978, the division has the
25 general power to:

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1 (1) sue and, subject to the provisions of
2 the Tort Claims Act, be sued;

3 (2) enter into contracts, joint powers
4 agreements and other contracts for work force development
5 services and administer related programs with other state
6 agencies; local governments; state institutions of higher
7 learning; Indian nations, tribes or pueblos; regional
8 provider networks; and corporations authorized to do business
9 in the state;

10 (3) take administrative action by issuing
11 orders and instructions, not inconsistent with law, to ensure
12 implementation of and compliance with the provisions of law
13 for which the division is responsible and to enforce those
14 orders and instructions by appropriate administrative actions
15 or actions in courts;

16 (4) promulgate, following the procedure in
17 Subsection E of Section 9-1-5 NMSA 1978, reasonable rules
18 necessary to carry out the duties of the division; and

19 (5) take all other actions necessary to meet
20 the purposes of the Workforce Development Act."

21 Section 60. Section 50-15-2 NMSA 1978 (being Laws
22 2005, Chapter 257, Section 2, as amended) is amended to read:

23 "50-15-2. DEFINITIONS.--As used in the Day Laborer
24 Act:

25 A. "check cashing service" means a business that

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1 for a fee offers to cash checks or other payment instruments
2 or that advertises that it cashes checks or other payment
3 instruments;

4 B. "day labor" means employment that is under a
5 contract between a day labor service agency and a third-party
6 employer, that is occasional or irregular and that is for a
7 limited time period;

8 C. "day labor service agency" means an entity,
9 including a labor broker or labor pool, that provides day
10 laborers to third-party employers and that charges the third-
11 party employer for the service of providing day laborers for
12 employment offered by the employer;

13 D. "day laborer" means a person who contracts for
14 day labor employment with a day labor service agency;

15 E. "department" means the [~~workforce solutions~~]
16 commerce and economic development department;

17 F. "office worker" means a person employed to
18 perform clerical, secretarial or other semiskilled or skilled
19 work that is predominantly performed in an office setting;

20 G. "payment instrument" means a paycheck, payment
21 voucher or other negotiable instrument from an employer
22 provided to an employee to pay for hours worked; and

23 H. "third-party employer" means a person that
24 contracts with a day labor service agency for the employment
25 of day laborers."

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1 Section 61. Section 51-1-2 NMSA 1978 (being Laws 1979,
2 Chapter 280, Section 11, as amended) is amended to read:

3 "51-1-2. DEFINITIONS.--As used in the Unemployment
4 Compensation Law:

5 A. "department" means the [~~workforce~~
6 ~~solutions~~] commerce and economic development department;

7 B. "division" means the work force transition
8 services division of the department, the director of the
9 division or an employee of the division exercising authority
10 lawfully delegated to the employee by the director; and

11 C. "secretary" means the secretary of [~~workforce~~
12 ~~solutions~~] commerce and economic development or an employee
13 of the department exercising authority lawfully delegated to
14 the employee by the secretary."

15 Section 62. Section 53-7B-3 NMSA 1978 (being Laws
16 2009, Chapter 66, Section 3) is amended to read:

17 "53-7B-3. DEFINITIONS.--As used in the New Mexico
18 Research Applications Act:

19 A. "board" means the board of directors of the
20 research applications center;

21 B. "department" means the commerce and economic
22 development department;

23 C. "research applications center" means the
24 nonprofit corporation created pursuant to the Nonprofit
25 Corporation Act and the New Mexico Research Applications Act;

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1 D. "technological innovations" includes research,
2 development, prototype assembly, manufacturing, patenting,
3 licensing, marketing and sale of inventions, ideas,
4 practices, applications, processes, machines and technology
5 and related property rights of all kinds; and

6 E. "university" means:

7 (1) a New Mexico educational institution
8 named in Article 12, Section 11 of the constitution of New
9 Mexico;

10 (2) a community college organized pursuant
11 to the Community College Act or pursuant to Chapter 21,
12 Article 14 NMSA 1978; or

13 (3) a technical and vocational institute
14 organized pursuant to the Technical and Vocational Institute
15 Act."

16 Section 63. Section 56-8-24 NMSA 1978 (being Laws
17 1980, Chapter 64, Section 3) is amended to read:

18 "56-8-24. DEFINITIONS.--As used in the Residential
19 Home Loan Act:

20 A. "residence" means a dwelling, and the
21 underlying real property, designed for occupancy by one to
22 four families and includes mobile homes and condominiums;

23 B. "home loan" means:

24 (1) a loan made to a person, all or a
25 substantial portion of the proceeds of which will be used to

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1 purchase, construct, improve, rehabilitate or sell a
2 residence or refinance a loan on a residence and which loan
3 will be secured in whole or in part by a security interest in
4 the residence evidenced by a real estate mortgage;

5 (2) the principal amount secured by a real
6 estate mortgage on a residence when that real estate mortgage
7 was executed by the mortgagor in connection with [~~his~~] the
8 mortgagor's purchase of the property and the obligation
9 secured represents a part of the deferred purchase price; or

10 (3) the deferred balance due under a real
11 estate contract made for the purchase or sale of a residence;

12 C. "director" means the director of the financial
13 institutions division of the commerce and [~~industry~~]
14 economic development department;

15 D. "person" means any individual or other legal
16 entity;

17 E. "real estate contract" means a contractual
18 document creating rights and obligations between a seller and
19 buyer of a residence under which the seller agrees to
20 transfer legal title to the residence to the buyer after
21 payment over time of all or part of the purchase price of the
22 residence;

23 F. "real estate mortgage" means any document
24 creating a security interest in a residence owned by a person
25 to secure the payment of a home loan as defined in Paragraphs

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1 (1) and (2) of Subsection B of this section and includes
2 mortgages and deeds of trust;

3 G. "rate of interest" means the annual interest
4 rate computed on any home loan determined by and calculated
5 over the full contracted term of the home loan and includes
6 in the calculation both the interest on the principal amount
7 of the loan and discount points, premiums, commitment fees
8 and other interest charges made pursuant to a home loan; and

9 H. "federal national mortgage association
10 auction" means a biweekly auction of the federal national
11 mortgage association for commitments to purchase eligible
12 conventional home loans (free market system auction)."

13 Section 64. Section 57-3C-2 NMSA 1978 (being Laws
14 2001, Chapter 346, Section 2) is amended to read:

15 "57-3C-2. DEFINITIONS.--As used in the Patent and
16 Copyright Act:

17 A. "department" means the commerce and economic
18 development department;

19 B. "patent" means the grant of certain property
20 rights in an invention, as defined in federal patent laws, to
21 an inventor that includes the right to exclude others from
22 making, using, offering for sale, selling or importing the
23 invention; and

24 C. "copyright" means the property rights, as
25 defined in federal copyright laws, in original works of

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1 authorship."

2 Section 65. Section 57-25-2 NMSA 1978 (being Laws
3 1993, Chapter 284, Section 2, as amended) is amended to read:

4 "57-25-2. DEFINITIONS.--As used in the Carnival Ride
5 Insurance Act:

6 A. "carnival ride" means any mechanical device,
7 aquatic device or combination of devices that carries or
8 conveys passengers on, along, around, through or over a fixed
9 or restricted route or course or within a defined area for
10 the purpose of giving its passengers amusement, pleasure,
11 thrills or excitement, including bungee jumping facilities
12 and state fair rides, but does not include playground
13 equipment, a single-passenger, coin-operated device secured
14 by a stationary foundation or a small promotional event or
15 operation consisting of fewer than six kiddie rides designed
16 for children twelve years of age or younger, including merry-
17 go-rounds;

18 B. "department" means the [~~regulation and~~
19 ~~licensing~~] commerce and economic development department;

20 C. "inspection" means a physical examination of a
21 carnival ride by an inspector of the [~~regulation and~~
22 ~~licensing~~] commerce and economic development department prior
23 to issuing a certificate of inspection, including
24 reinspection;

25 D. "operator" means a person actually engaged in

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1 or directly controlling the operation of a carnival ride; and

2 E. "owner" means a person, including the state or
3 any political subdivision of the state, who owns or leases a
4 carnival ride."

5 Section 66. Section 57-30-2 NMSA 1978 (being Laws
6 2008, Chapter 29, Section 2) is amended to read:

7 "57-30-2. DEFINITIONS.--As used in the Sale of
8 Recycled Metals Act:

9 A. "aluminum material" means a product made from
10 aluminum, an aluminum alloy or an aluminum byproduct.

11 "Aluminum material" includes an aluminum beer keg but does
12 not include other types of aluminum cans used to contain a
13 food or beverage;

14 B. "bronze material" means:

15 (1) a cemetery vase, receptacle or memorial
16 made from bronze;

17 (2) bronze statuary; and

18 (3) material readily identifiable as bronze;

19 C. "business day" means any calendar day except
20 Sunday or the following business holidays: New Year's day,
21 [~~Washington's birthday~~] Presidents' day, Memorial day,
22 Independence day, Labor day, Columbus day, Veterans' day,
23 Thanksgiving day, Christmas day, Martin Luther King, Jr.'s
24 birthday and any other legal public holiday of the state of
25 New Mexico or the United States;

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1 D. "copper or brass material" means:

2 (1) insulated or noninsulated copper wire,
3 hardware or cable of the type used by a public utility,
4 commercial mobile radio service carrier or common carrier
5 that consists of at least twenty-five percent copper; and

6 (2) a copper or brass item of a type
7 commonly used in construction or by a public utility,
8 commercial mobile radio service carrier or common carrier;

9 E. "department" means the [~~regulation and~~
10 ~~licensing~~] commerce and economic development department;

11 F. "peace officer" means any full-time salaried
12 and commissioned or certified law enforcement officer of a
13 police or sheriff's department that is part of or
14 administered by the state or any political subdivision of the
15 state;

16 G. "personal identification document" means:

17 (1) a driver's license;
18 (2) a military identification card;
19 (3) a passport issued by the United States
20 or by another country and recognized by the United States;
21 and

22 (4) a personal identification certificate
23 issued by the department, or a corresponding card or
24 certificate issued by another state;

25 H. "regulated material" means:

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- 1 (1) aluminum material;
- 2 (2) bronze material;
- 3 (3) copper or brass material; and
- 4 (4) steel material;

5 I. "secondhand metal dealer" means:

- 6 (1) an auto wrecker, a scrap metal processor
- 7 or other person that purchases, collects or solicits
- 8 regulated material; and
- 9 (2) a person who operates or maintains a
- 10 scrap metal yard or other place in which scrap metal or
- 11 cast-off regulated material is collected or kept for
- 12 shipment, sale or transfer;

13 J. "steel material" means a product made from an

14 alloy of iron, chromium, nickel or manganese, including

15 stainless steel beer kegs; and

16 K. "superintendent" or "secretary" means the

17 [~~superintendent of regulation and licensing~~] secretary of

18 commerce and economic development."

19 Section 67. Section 58-1-3 NMSA 1978 (being Laws 1963,

20 Chapter 305, Section 3, as amended) is amended to read:

21 "58-1-3. DEFINITIONS.--As used in the Banking Act,

22 unless the context otherwise requires:

23 A. "action" in the sense of a judicial proceeding

24 means any proceeding in which rights are determined;

25 B. "allowances for loan and lease losses" means

1 the difference between:

2 (1) the balance of the valuation reserve on
3 the date of the most recent federal financial institutions
4 examination council report of condition or income plus
5 additions to the reserve charged to operations since that
6 date; and

7 (2) losses charged against the allowance,
8 net of recoveries;

9 C. "board" means the board of directors of any
10 given bank;

11 D. "capital" or "capital stock" means the amount
12 of common stock outstanding and unimpaired plus the amount of
13 perpetual preferred stock outstanding and unimpaired;

14 E. "capital surplus" means the total of those
15 accounts reflecting:

16 (1) amounts paid in excess of the par or
17 stated value of capital stock;

18 (2) amounts contributed to the bank other
19 than for capital stock;

20 (3) amounts transferred from undivided
21 profits pursuant to Section 58-1-55 NMSA 1978; and

22 (4) other amounts transferred from undivided
23 profits;

24 F. "commissioner" or "director" means the
25 director of the financial institutions division of the

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1 ~~[regulation and licensing]~~ commerce and economic development
2 department;

3 G. "community" means a city, town or village in
4 this state;

5 H. "county" means any of the political
6 subdivisions of this state as defined in Chapter 4 NMSA 1978,
7 except that when applied to locations within the exterior
8 boundaries of a federally recognized Indian reservation or
9 pueblo, "county" means all lands within the exterior
10 boundaries of that reservation or pueblo without regard to
11 the county boundaries established in Chapter 4 NMSA 1978.
12 For purposes of the Banking Act, the Indian reservation or
13 pueblo lands defined as a "county" by this subsection shall
14 be considered to be adjoining any of the counties, as defined
15 by Chapter 4 NMSA 1978, ~~[which]~~ that are adjoining the county
16 or counties in which that Indian reservation or pueblo is
17 located;

18 I. "court" means a court of competent
19 jurisdiction;

20 J. "cumulative voting" means, in all elections of
21 directors, each shareholder shall have the right to vote the
22 number of shares owned by ~~[him]~~ the shareholder for as many
23 persons as there are directors to be elected or to cumulate
24 such shares and give one candidate as many votes as the
25 number of directors, multiplied by the number of ~~[his]~~ the

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1 shareholder's shares, shall equal or to distribute them on
2 the same principle among as many candidates as [~~he~~] the
3 shareholder thinks fit. In deciding all other questions at
4 meetings of shareholders, each shareholder shall be entitled
5 to one vote on each share of stock held by [~~him~~] the
6 shareholder, except that this shall not be construed as
7 limiting the voting rights of holders of preferred stock
8 under the terms and provisions of articles of association or
9 amendments thereto;

10 K. "department" or "division" means the financial
11 institutions division of the [~~regulation and licensing~~]
12 commerce and economic development department;

13 L. "executive officer", when referring to a bank,
14 means any person designated as such in the bylaws and
15 includes, whether or not so designated, the president, any
16 vice president, the treasurer, the cashier and the
17 comptroller or auditor, or any person who performs the duties
18 appropriate to those offices;

19 M. "fiduciary" means a trustee, agent, executor,
20 administrator, committee, guardian or conservator for a minor
21 or other incompetent person, receiver, trustee in bankruptcy,
22 assignee for creditors or any holder of a similar position of
23 trust;

24 N. "good faith" means honesty in fact in the
25 conduct or transaction concerned;

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1 O. "intangible assets" means those purchased
2 assets that are required to be reported as intangible assets
3 by the federal deposit insurance corporation;

4 P. "item" means any instrument for the payment of
5 money, even though it is not negotiable, but does not include
6 money;

7 Q. "legal tender" means coins and currency;

8 R. "lessee" means a person contracting with a
9 lessor for the use of a safe deposit box;

10 S. "lessor" means a bank or subsidiary renting
11 safe deposit facilities and includes a safe deposit company
12 organized and operating under the jurisdiction of the
13 division solely for the purpose of leasing safe deposit
14 facilities;

15 T. "limited life preferred stock" means preferred
16 stock that has a stated maturity date or may be redeemed at
17 the option of the holder;

18 U. "mandatory convertible debt" means a
19 subordinated debt instrument that:

20 (1) unqualifiedly requires the issuer to
21 exchange either common or perpetual preferred stock for the
22 instrument by a date on or before the expiration of twelve
23 years; and

24 (2) meets the requirements of Subparagraph
25 (b) of Paragraph (2) of Subsection CC of this section or

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1 other requirements adopted by the division;

2 V. "minority interest in consolidated
3 subsidiaries" means the portion of equity capital accounts of
4 all consolidated subsidiaries of the bank that is allocated
5 to minority shareholders of those subsidiaries;

6 W. "mortgage servicing rights" means the rights
7 owned by the bank to service for a fee mortgage loans that
8 are owned by others;

9 X. "officer", when referring to a bank, means any
10 person designated as such in the bylaws and includes, whether
11 or not so designated, any executive officer, the [~~chairman~~]
12 chair of the board of directors, the [~~chairman~~] chair of the
13 executive committee and any trust officer, assistant vice
14 president, assistant treasurer, assistant cashier, assistant
15 comptroller or any person who performs the duties appropriate
16 to those offices;

17 Y. "perpetual preferred stock" means preferred
18 stock that does not have a stated maturity date and cannot be
19 redeemed at the option of the holder;

20 Z. "person" means an individual, corporation,
21 partnership, joint venture, trust estate or unincorporated
22 association;

23 AA. "reason to know" means that, to a person of
24 ordinary intelligence, the fact in question exists or has a
25 substantial chance of existing and that the exercise of

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1 reasonable care would predicate conduct upon the assumption
2 of its existence;

3 BB. "safe deposit box" means a safe deposit box,
4 vault or other safe deposit receptacle maintained by a
5 lessor, and the rules relating thereto apply to property or
6 documents kept in safekeeping in the bank's vault; and

7 CC. "surplus" or "unimpaired surplus fund":

8 (1) means:

9 (a) the difference between: 1) the
10 sum of capital surplus; undivided profits; reserves for
11 contingencies and other capital reserves, excluding accrued
12 dividends on perpetual and limited life preferred stock;
13 minority interests in consolidated subsidiaries; and
14 allowances for loan and lease losses; and 2) intangible
15 assets, including those, other than mortgage servicing
16 rights, purchased prior to April 15, 1985, but not to exceed
17 twenty-five percent of Item 1) of this subparagraph;

18 (b) purchased mortgage servicing
19 rights;

20 (c) mandatory convertible debt to the
21 extent of twenty percent of the sum of Subparagraph (d) and
22 Subparagraphs (a) and (b) of this paragraph; and

23 (d) other mandatory convertible debt,
24 limited preferred stock and subordinated notes and
25 debentures; and

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1 (2) is subject to the following limitations:

2 (a) issues of limited life preferred
3 stock and subordinated notes and debentures, except mandatory
4 convertible debt, must have original weighted average
5 maturities of at least five years to be included in surplus;

6 (b) a subordinated note or debenture
7 must also: 1) be subordinated to the claims of depositors;
8 2) state on the instrument that it is not a deposit and is
9 not insured by the federal deposit insurance corporation; 3)
10 be approved as capital by the division; 4) be unsecured; 5)
11 be ineligible as collateral for a loan by the issuing bank;
12 6) provide that once any scheduled payments of principal
13 begin, all scheduled payments shall be made at least annually
14 and the amount repaid in each year shall be no less than in
15 the prior year; and 7) provide that no accelerated payment by
16 reason of default or otherwise may be made without the prior
17 written approval of the division; and

18 (c) the total amount of mandatory
19 convertible debt included in Subparagraph (d) of Paragraph
20 (1) of this subsection considered as surplus is limited to
21 fifty percent of the sum of Subparagraphs (a) and (c) of
22 Paragraph (1) of this subsection."

23 Section 68. Section 58-1A-2 NMSA 1978 (being Laws
24 1993, Chapter 11, Section 2, as amended) is amended to read:

25 "58-1A-2. DEFINITIONS.--As used in the Consumer Credit

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1 Bank Act:

2 A. "consumer credit bank" means a national bank
3 located in the state or a bank organized pursuant to the laws
4 of this state that has those powers and limitations provided
5 for pursuant to the Consumer Credit Bank Act;

6 B. "credit card" means an arrangement or loan
7 agreement under which a domestic bank or consumer credit bank
8 gives a borrower the privilege of using a credit card or
9 other credit confirmation or device of any type in
10 transactions out of which debt is created by:

11 (1) the domestic bank or consumer credit
12 bank honoring a draft or similar order for the payment of
13 money created, authorized, issued or accepted by the
14 borrower; or

15 (2) the domestic bank or consumer credit
16 bank paying or agreeing to pay the borrower's obligation;

17 C. "credit card account" means an arrangement
18 between a domestic bank or consumer credit bank and a
19 borrower for the creation of debt pursuant to a credit card
20 and under which:

21 (1) the domestic bank or consumer credit
22 bank may permit the borrower to create either revolving or
23 nonrevolving debt from time to time;

24 (2) the unpaid balance of principal of the
25 created debt and the loan, finance or other appropriate

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1 charges are debited to the account;

2 (3) a loan finance charge is computed or an
3 interest rate is imposed upon the outstanding debt balances
4 of the borrower's account from time to time; and

5 (4) a domestic bank or consumer credit bank
6 is to render bills or statements to the borrower at regular
7 intervals stating the amount that is payable by and due from
8 the borrower on a specified date stated in the bill or
9 statement or, at the option of the borrower but subject to
10 the terms and conditions of the credit card account, stating
11 that the amount may be paid by the borrower in installments;

12 D. "director" means the director of the financial
13 institutions division of the [~~regulation and licensing~~]
14 commerce and economic development department;

15 E. "domestic bank" means a bank having its
16 principal place of business in this state and chartered under
17 the laws of this state or the United States;

18 F. except as used in Subsection H of this
19 section, "foreign bank" means a bank chartered under the laws
20 of the United States, any state other than New Mexico or the
21 District of Columbia that has its principal place of business
22 outside of New Mexico;

23 G. "holding company" means a corporation that
24 controls a domestic, foreign or international bank; and

25 H. "international bank" means any company

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1 organized under the laws of a foreign country, a territory of
2 the United States, Puerto Rico, Guam, American Samoa or the
3 Virgin Islands, [~~which~~] that engages in the business of
4 banking, or any subsidiary or affiliate of any company
5 [~~which~~] that engages in the business of banking organized
6 under those laws. "International bank" includes foreign
7 commercial banks, foreign merchant banks and other foreign
8 institutions that engage in banking activities usual in
9 connection with the business of banking in the countries
10 where such foreign institutions are organized or operating."

11 Section 69. Section 58-1B-2 NMSA 1978 (being Laws
12 1996, Chapter 2, Section 2) is amended to read:

13 "58-1B-2. DEFINITIONS.--As used in the Interstate Bank
14 Acquisition Act:

15 A. "acquire" means:

16 (1) for a company to merge or consolidate
17 with a bank holding company;

18 (2) for a company to assume direct or
19 indirect ownership or control of:

20 (a) more than twenty-five percent of
21 any class of voting shares of a bank holding company or a
22 bank, if the acquiring company was not a bank holding company
23 prior to the acquisition;

24 (b) more than five percent of any
25 class of voting shares of a bank holding company or a bank,

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1 if the acquiring company was a bank holding company prior to
2 the acquisition; or

3 (c) all or substantially all of the
4 assets of a bank holding company or a bank; or

5 (3) for a company to take any other action
6 that results in the direct or indirect acquisition by the
7 company of control of a bank holding company or a bank;

8 B. "affiliate" means that term as defined in 12
9 USCA Section 371c(b);

10 C. "bank" means that term as defined in 12 USCA
11 Section 1841(c);

12 D. "bank holding company" means that term as
13 defined in 12 USCA Section 1841(a) and includes a New Mexico
14 bank holding company, an out-of-state bank holding company
15 and a foreign bank holding company;

16 E. "Bank Holding Company Act" means the federal
17 Bank Holding Company Act of 1956, 12 USCA Section 1841 et
18 seq.;

19 F. "bank supervisory agency" means:

20 (1) an agency of another state with primary
21 responsibility for chartering and supervising banks; ~~and~~ or

22 (2) the office of the comptroller of the
23 currency, the federal deposit insurance corporation, the
24 board of governors of the federal reserve system and any
25 successor to these agencies;

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1 G. "branch" means that term as defined in
2 Subsection C of Section 58-5-2 NMSA 1978;

3 H. "company" means that term as defined in 12
4 USCA Section 1841(b);

5 I. "control" means that term as defined in 12
6 USCA Section 1841(a)(2);

7 J. "deposit" means that term as defined in 12
8 USCA Section 1813(1);

9 K. "depository institution" means an institution
10 defined as an "insured depository institution" in 12 USCA
11 Sections 1813(c)(2) and (c)(3);

12 L. "director" means the director of the financial
13 institutions division of the [~~regulation and licensing~~]
14 commerce and economic development department;

15 M. "foreign bank holding company" means a bank
16 holding company that is organized under the laws of a country
17 other than the United States or a territory or possession of
18 the United States;

19 N. "home state regulator" means, with respect to
20 an out-of-state bank holding company, the primary bank
21 supervisory agency of the state in which the out-of-state
22 bank holding company maintains its principal place of
23 business;

24 O. "New Mexico bank" means a bank that is:

25 (1) organized under the laws of this state;

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1 or

2 (2) organized under federal law and having
3 its principal place of business in this state;

4 P. "New Mexico bank holding company" means a bank
5 holding company that:

6 (1) had its principal place of business in
7 this state on July 1, 1966 or the date on which it became a
8 bank holding company, whichever is later; and

9 (2) is not controlled by an out-of-state
10 bank holding company;

11 Q. "New Mexico state bank" means a bank chartered
12 by the state of New Mexico;

13 R. "out-of-state bank holding company" means a
14 bank holding company that is not a New Mexico bank holding
15 company;

16 S. "principal place of business" of a bank
17 holding company means the state in which the largest
18 percentage of the total deposits of its bank subsidiaries was
19 deposited on the later of July 1, 1966 or the date on which
20 the company became a bank holding company;

21 T. "state" means the District of Columbia or a
22 state, territory or possession of the United States; and

23 U. "subsidiary" means that term as defined in 12
24 USCA Section 1841(d)."

25 Section 70. Section 58-1C-3 NMSA 1978 (being Laws

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1 1996, Chapter 2, Section 16) is amended to read:

2 "58-1C-3. DEFINITIONS.--As used in the Interstate Bank
3 Branching Act:

4 A. "bank" means that term as defined in 12 USCA
5 Section 1813(h), but "bank" does not include any "foreign
6 bank" as defined in 12 USCA Section 3101(7), unless the
7 foreign bank is organized under the laws of a territory of
8 the United States, Puerto Rico, Guam, American Samoa or the
9 Virgin Islands and its deposits are insured by the federal
10 deposit insurance corporation;

11 B. "bank holding company" means that term as
12 defined in 12 USCA Section 1841(a)(1);

13 C. "bank supervisory agency" means:

14 (1) an agency of another state with primary
15 responsibility for chartering and supervising banks; ~~and~~ or

16 (2) the office of the comptroller of the
17 currency, the federal deposit insurance corporation, the
18 board of governors of the federal reserve system and any
19 successor to these agencies;

20 D. "branch" means that term as defined in
21 Subsection C of Section 58-5-2 NMSA 1978;

22 E. "control" means that term as defined in 12
23 USCA Section 1841(a)(2);

24 F. "director" means the director of the financial
25 institutions division of the ~~[regulation and licensing]~~

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1 commerce and economic development department;

2 G. "home state" means:

3 (1) with respect to a state bank, the state
4 in which the bank is chartered;

5 (2) with respect to a national bank, the
6 state in which the main office of the bank is located; and

7 (3) with respect to a foreign bank, the
8 state determined to be the home state of the foreign bank
9 pursuant to 12 USCA Section 3103(c);

10 H. "home state regulator" means the bank
11 supervisory agency of the state in which an out-of-state
12 state bank is chartered;

13 I. "host state" means a state, other than the
14 home state of a bank, in which the bank maintains, or seeks
15 to establish and maintain, a branch;

16 J. "insured depository institution" means that
17 term as defined in 12 USCA Section 1813(c)(2);

18 K. "interstate merger transaction" means:

19 (1) the merger or consolidation of banks
20 with different home states and the conversion of branches of
21 any bank involved in the merger or consolidation into
22 branches of the resulting bank; or

23 (2) the purchase of all or substantially all
24 of the assets and branches of a bank whose home state is
25 different from the home state of the acquiring bank;

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1 L. "main office" means the office declared by a
2 bank to its chartering bank supervisory agency to be its main
3 office;

4 M. "New Mexico bank" means a bank whose home
5 state is New Mexico;

6 N. "New Mexico state bank" means a bank chartered
7 under the laws of New Mexico;

8 O. "out-of-state bank" means a bank whose home
9 state is a state other than New Mexico;

10 P. "out-of-state state bank" means a bank
11 chartered under the laws of any state other than New Mexico;

12 Q. "resulting bank" means a bank that has
13 resulted from an interstate merger transaction under the
14 Interstate Bank Branching Act; and

15 R. "state" means a state of the United States,
16 the District of Columbia, a territory of the United States,
17 Puerto Rico, Guam, American Samoa, the Trust Territory of the
18 Pacific Islands, the Virgin Islands or the Northern Mariana
19 Islands."

20 Section 71. Section 58-9-2 NMSA 1978 (being Laws 1973,
21 Chapter 191, Section 2, as amended) is amended to read:

22 "58-9-2. DEFINITIONS.--As used in the Trust Company
23 Act:

24 A. "commissioner" or "director" means the
25 director of the financial institutions division of the

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1 ~~[regulation and licensing]~~ commerce and economic development
2 department;

3 B. "trust business" means the holding out by a
4 person, legal entity or corporation to the public at large by
5 advertising, solicitation or other means that the person,
6 legal entity or corporation is available to act as a
7 fiduciary in this state or is accepting and undertaking to
8 perform the duties of a fiduciary in the regular course of
9 its business;

10 C. "trust company" means a corporation holding a
11 certificate issued pursuant to the Trust Company Act;

12 D. "certificate" means a certificate of authority
13 issued under the provisions of the Trust Company Act to
14 engage in trust business;

15 E. "fiduciary" means executor, administrator,
16 conservator or trustee; and

17 F. "nonprofit corporation" means a nonprofit
18 corporation as defined in the Nonprofit Corporation Act that
19 is funded by or contracts with a federal, state, county or
20 other governmental entity to provide trust services."

21 Section 72. Section 58-10-2 NMSA 1978 (being Laws
22 1967, Chapter 61, Section 2, as amended) is amended to read:

23 "58-10-2. DEFINITIONS.--As used in the Savings and
24 Loan Act:

25 A. "association" means a savings association or

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1 savings and loan association or building and loan association
2 subject to the provisions of the Savings and Loan Act;

3 B. "dividends or interest on savings accounts"
4 means that part of the income of an association [~~which~~] that
5 is declared payable on savings accounts from time to time by
6 the board of directors and is the cost of savings-money to
7 the association;

8 C. "federal association" means a savings and loan
9 association incorporated pursuant to the Home Owners Loan Act
10 of 1933, as amended, whose principal business office is
11 located within this state;

12 D. "loss reserves" means the aggregate amount of
13 the reserves allocated by an association for the sole purpose
14 of absorbing losses;

15 E. "member" means a person holding a savings
16 account in an association, or borrowing from, [~~or~~] assuming
17 or obligated upon a loan in which an association has an
18 interest or owning property [~~which~~] that secures a loan in
19 which an association has an interest;

20 F. "savings account" means that part of the
21 savings liability of an association [~~which~~] that is credited
22 to a member by reason of the placement of funds in the
23 association;

24 G. "savings and loan association" means an
25 association whose primary purpose is to promote thrift and

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1 home financing and whose principal activity is the lending to
2 its members of money accumulated in savings accounts of its
3 members;

4 H. "savings liability" means the aggregate amount
5 of the withdrawal value of the savings accounts of the
6 members of an association at any particular time as shown by
7 the books of the association;

8 I. "service corporation" means an organization,
9 substantially all the activities of which consist of
10 originating, purchasing, selling and servicing loans upon
11 real estate and participating interests therein, or clerical,
12 bookkeeping, accounting, statistical or similar functions
13 performed primarily for financial institutions, plus such
14 other activities as the supervisor may approve;

15 J. "supervisor" means the chief of the savings and
16 loan bureau appointed by and acting under supervision of the
17 director of the financial institutions division of the
18 commerce and [~~industry~~] economic development department or
19 the director of the financial institutions division if the
20 position is vacant;

21 K. "surplus" means the aggregate amount of the
22 undistributed earnings of an association held as undivided
23 profits or unallocated reserves for general corporate
24 purposes and any paid-in surplus held by an association;

25 L. "withdrawal value of a savings account" means

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1 the credit balance of a savings account at any particular
2 time as shown by the books of the association; and

3 M. "net worth" means the sum of all reserve
4 accounts, undivided profits, surplus, capital stock and any
5 other notwithdrawable accounts."

6 Section 73. Section 58-10-71 NMSA 1978 (being Laws
7 1967, Chapter 61, Section 70, as amended) is amended to read:

8 "58-10-71. SAVINGS AND LOAN SUPERVISOR.--There is
9 created the "savings and loan bureau" in the financial
10 institutions division of the commerce and [~~industry~~] and
11 economic development department. The chief of the bureau
12 shall be the "savings and loan supervisor". The supervisor
13 and any examiners shall not be interested in any association
14 directly or indirectly, or be directors, officers, employees,
15 borrowers, trustees or attorneys for any association, or
16 [~~received~~] receive, directly or indirectly, any payment or
17 gratuity from any association."

18 Section 74. Section 58-11-2 NMSA 1978 (being Laws 1987,
19 Chapter 311, Section 2, as amended) is amended to read:

20 "58-11-2. DEFINITIONS.--As used in the Credit Union
21 Act:

22 A. "board member" means a member of the board of
23 directors of a credit union;

24 B. "capital" means share accounts, membership
25 shares, reserves and undivided earnings;

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1 C. "credit union" means a cooperative, nonprofit,
2 financial institution organized under or subject to the
3 Credit Union Act for the purposes of encouraging thrift among
4 its members, creating a source of credit at fair and
5 reasonable rates of interest and providing an opportunity for
6 its members to use and control their own money on a
7 democratic basis in order to improve their economic and
8 social condition;

9 D. "deposit account" means a balance held by a
10 credit union and established by a person in accordance with
11 standards specified by the credit union, including balances
12 designated as deposits, deposit certificates, checking
13 accounts or other names. Ownership of a deposit account does
14 not confer membership or voting rights and does not represent
15 an interest in the capital of the credit union upon
16 dissolution or conversion to another type of institution;

17 E. "director" means the director of the [~~financial~~
18 ~~institutions~~] division [~~of the regulation and licensing~~
19 ~~department~~];

20 F. "division" means the financial institutions
21 division of the [~~regulation and licensing~~] commerce and
22 economic development department;

23 G. "executive officer" means any person who is
24 responsible for the management of the credit union as
25 provided in the bylaws of the credit union and includes the

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1 chief executive officer, the president, a vice president, the
2 credit union manager, an assistant manager or a person who is
3 assigned and performs the management duties appropriate to
4 those offices;

5 H. "governmental unit" means any board, agency,
6 department, authority, instrumentality or other unit or
7 organization of the United States, this state or any
8 political subdivision thereof;

9 I. "immediate family" means those persons related
10 by blood or marriage as well as stepchildren, foster children
11 and adopted children or persons who live in the same
12 residence and maintain a single economic unit;

13 J. "insolvent" means the condition that results
14 when the cash value of assets is less than the liabilities
15 and members' share and deposit accounts;

16 K. "insuring organization" means the national
17 credit union administration or any other insurer that has
18 been approved by the director to provide aid and financial
19 assistance to credit unions that are in the process of
20 liquidation or are incurring financial difficulty, in order
21 that the share and deposit accounts in credit unions shall be
22 protected or guaranteed against loss without limit or up to a
23 specified level for each account;

24 L. "membership share" means a balance held by a
25 credit union and established by a member in accordance with

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1 standards specified by the credit union. Ownership of a
2 membership share represents an interest in the capital of the
3 credit union upon dissolution or conversion to another type
4 of institution;

5 M. "organization" means any corporation,
6 association, partnership, society, firm, syndicate, trust or
7 other legal entity;

8 N. "person" means any individual, organization or
9 governmental unit;

10 O. "primary share account" means a share account
11 that a credit union's bylaws designate as conferring voting
12 rights;

13 P. "risk assets" means all assets of the credit
14 union except those exempted by the director by regulation;

15 Q. "service facility" means any building, machine
16 or device, whether mechanical, electronic or otherwise, that
17 is operated or maintained, in whole or in part, to provide
18 services to members; and

19 R. "share account" means a balance held by a credit
20 union and established by a member in accordance with
21 standards specified by the credit union, including balances
22 designated as shares, share certificates, share draft
23 accounts or other similar names. Ownership of a share
24 account confers membership and represents an interest in the
25 capital of the credit union upon dissolution or conversion to

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1 another type of institution."

2 Section 75. Section 58-13A-2 NMSA 1978 (being Laws
3 1985, Chapter 163, Section 2) is amended to read:

4 "58-13A-2. DEFINITIONS.--As used in the Model State
5 Commodity Code:

6 A. "director" means the [~~chief of the~~] securities
7 [~~bureau of the financial institutions~~] division of the
8 [~~regulation and licensing~~] commerce and economic development
9 department;

10 B. "Commodity Exchange Act" means the act of
11 congress known as the Commodity Exchange Act, as amended to
12 the effective date of the Model State Commodity Code;

13 C. "commodity futures trading commission" means the
14 independent regulatory agency established by congress to
15 administer the Commodity Exchange Act;

16 D. "CFTC rule" means any rule, regulation or order
17 of the commodity futures trading commission in effect on the
18 effective date of the Model State Commodity Code;

19 E. "commodity" means, except as otherwise specified
20 by the director by rule, regulation or order, any
21 agricultural, grain or livestock product or byproduct; any
22 metal or mineral, including a precious metal set forth in
23 Subsection F of this section; any gem or gemstone whether
24 characterized as precious, semiprecious or otherwise; any
25 fuel, whether liquid, gaseous or otherwise; any foreign

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1 currency; and all other goods, articles, products or items of
2 any kind; provided that the term commodity shall not include:

3 (1) a numismatic coin whose fair market value
4 is at least twenty percent higher than the value of the metal
5 it contains;

6 (2) real property or any agricultural or
7 livestock product grown or raised on real property and
8 offered or sold by the owner or lessee of such real property;
9 or

10 (3) any work of art offered or sold by art
11 dealers at public auction or offered or sold through a
12 private sale by the owner thereof;

13 F. "precious metal" means [~~the following~~]:

14 (1) silver, in either coin, bullion or other
15 form;

16 (2) gold, in either coin, bullion or other
17 form;

18 (3) platinum, in either coin, bullion or other
19 form; and

20 (4) such other items as the director may
21 specify by rule, regulation or order;

22 G. "commodity contract" means any account,
23 agreement or contract for the purchase or sale, primarily for
24 speculation or investment purposes and not for use or
25 consumption by the offeree or purchaser, of one or more

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1 commodities, whether for immediate or subsequent delivery or
2 whether delivery is intended by the parties and whether
3 characterized as a cash contract, deferred shipment or
4 deferred delivery contract, forward contract, futures
5 contract, installment or margin contract, leverage contract
6 or otherwise. Any commodity contract offered or sold shall,
7 in the absence of evidence to the contrary, be presumed to be
8 offered or sold for speculation or investment purposes. A
9 commodity contract shall not include any contract or
10 agreement [~~which~~] that requires, and under which the
11 purchaser receives, within twenty-eight calendar days from
12 the payment in good funds of any portion of the purchase
13 price, physical delivery of the total amount of each
14 commodity to be purchased under the contract or agreement;

15 H. "commodity option" means any account, agreement
16 or contract giving a party thereto the right to purchase or
17 sell one or more commodities or one or more commodity
18 contracts, whether characterized as an option, privilege,
19 indemnity, bid, offer, put, call, advance guaranty, decline
20 guaranty or otherwise, but shall not include a commodity
21 option traded on a national securities exchange registered
22 with the United States securities and exchange commission;

23 I. "commodity merchant" means any of the following,
24 as defined or described in the Commodity Exchange Act or by
25 CFTC rule:

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- 1 (1) futures commission merchant;
- 2 (2) commodity pool operator;
- 3 (3) commodity trading advisor;
- 4 (4) introducing broker;
- 5 (5) leverage transaction merchant;
- 6 (6) an associated person of any of the
- 7 foregoing;
- 8 (7) floor broker; [~~and~~] or
- 9 (8) any other person, other than a futures
- 10 association, required to register with the commodity futures
- 11 trading commission;

12 J. "board of trade" means any person or group of
13 persons engaged in buying or selling any commodity or
14 receiving the same for sale on consignment, whether such
15 person or group of persons is characterized as a board of
16 trade, exchange or other form of marketplace;

17 K. "offer" or "offer to sell" includes every offer,
18 every attempt to offer to dispose of, or solicitation of an
19 offer to buy, to purchase or to acquire, for value;

20 L. "sale" or "sell" includes every sale, contract
21 of sale, contract to sell, or disposition, for value;

22 M. "person" means an individual, a corporation, a
23 partnership, an association, a joint-stock company, a trust
24 where the interest of the beneficiaries are evidenced by a
25 security, an unincorporated organization or a government or a

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1 political subdivision of a government, but shall not include
2 a contract market designated by the commodity futures trading
3 commission or any clearinghouse thereof or a national
4 securities exchange registered with the securities and
5 exchange commission, or any employee, officer or director of
6 such contract market, clearinghouse or exchange acting solely
7 in that capacity; and

8 N. "financial institution" means a bank, savings
9 institution or trust company organized under, or supervised
10 pursuant to, the laws of the United States or of any state."

11 Section 76. Section 58-13C-102 NMSA 1978 (being Laws
12 2009, Chapter 82, Section 102) is amended to read:

13 "58-13C-102. DEFINITIONS.--As used in the New Mexico
14 Uniform Securities Act, unless the context otherwise
15 requires:

16 A. "agent" means an individual, other than a
17 broker-dealer, who represents a broker-dealer in effecting or
18 attempting to effect purchases or sales of securities or
19 represents an issuer in effecting or attempting to effect
20 purchases or sales of the issuer's securities, but a partner,
21 officer or director of a broker-dealer or issuer, or an
22 individual having a similar status or performing similar
23 functions, is an agent only if the individual otherwise comes
24 within the term. "Agent" does not include an individual
25 excluded by rule adopted or order issued pursuant to the New

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1 Mexico Uniform Securities Act;

2 B. "bank" means:

3 (1) a banking institution organized pursuant
4 to the laws of the United States;

5 (2) a member bank of the federal reserve
6 system;

7 (3) any other banking institution, whether
8 incorporated or not, doing business pursuant to the laws of a
9 state or of the United States, a substantial portion of the
10 business of which consists of receiving deposits or
11 exercising fiduciary powers similar to those permitted to be
12 exercised by national banks pursuant to the authority of the
13 comptroller of the currency pursuant to Section 1 of Public
14 Law 87-722 (12 U.S.C. Section 92a) and that is supervised and
15 examined by a state or federal agency having supervision over
16 banks and that is not operated for the purpose of evading the
17 New Mexico Uniform Securities Act; and

18 (4) a receiver, conservator or other
19 liquidating agent of any institution or firm included in
20 Paragraph (1), (2) or (3) of this subsection;

21 C. "broker-dealer" means a person engaged in the
22 business of effecting transactions in securities for the
23 account of others or for the person's own account. "Broker-
24 dealer" does not include:

25 (1) an agent;

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1 (2) an issuer;
2 (3) a bank or savings institution described in
3 Paragraph (2) of Subsection D of this section if its
4 activities as a broker-dealer are limited to those specified
5 in Subsections 3(a)(4)(B)(i) through (vi), (viii) through (x)
6 and (xi), if limited to unsolicited transactions; 3(a)(5)(B);
7 and 3(a)(5)(C) of the federal Securities Exchange Act of 1934
8 (15 U.S.C. Sections 78c(a)(4) and (5)) or a bank that
9 satisfies the conditions described in Subsection 3(a)(4)(E)
10 of the federal Securities Exchange Act of 1934 (15 U.S.C.
11 Section 78c(a)(4));

12 (4) an international banking institution; or

13 (5) a person excluded by rule adopted or order
14 issued pursuant to the New Mexico Uniform Securities Act;

15 D. "depository institution" means:

16 (1) a bank; or

17 (2) a savings institution, trust company,
18 credit union or similar institution that is organized or
19 chartered pursuant to the laws of a state or of the United
20 States, authorized to receive deposits and supervised and
21 examined by an official or agency of a state or the United
22 States if its deposits or share accounts are insured to the
23 maximum amount authorized by statute by the federal deposit
24 insurance corporation, the national credit union share
25 insurance fund or a successor authorized by federal law, or a

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1 receiver, conservator or other liquidating agent of such
2 institutions or entities. "Depository institution" does not
3 include:

4 (a) an insurance company or other
5 organization primarily engaged in the business of insurance;

6 (b) a Morris plan bank; or

7 (c) an industrial loan company that is not
8 an "insured depository institution" as defined in Section
9 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C.
10 1813(c)(2), or any successor federal statute;

11 E. "director" means the director of the
12 [~~securities~~] division [~~of the regulation and licensing~~
13 ~~department~~];

14 F. "division" means the securities division of the
15 [~~regulation and licensing~~] commerce and economic development
16 department, which for purposes of administering the
17 provisions of the New Mexico Uniform Securities Act and
18 conducting investigations of violations of that act shall be
19 considered a law enforcement agency;

20 G. "federal covered investment adviser" means a
21 person registered pursuant to the federal Investment Advisers
22 Act of 1940;

23 H. "federal covered security" means a security that
24 is, or upon completion of a transaction will be, a covered
25 security pursuant to Section 18(b) of the federal Securities

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1 Act of 1933 (15 U.S.C. Section 77r(b)) or rules or
2 regulations adopted pursuant to that section;

3 I. "filing" means the receipt pursuant to the New
4 Mexico Uniform Securities Act of a record by the director, or
5 a designee of the director, in a form and format designated
6 by the director;

7 J. "fraud", "deceit" and "defraud" are not limited
8 to common law deceit;

9 K. "guaranteed" means guaranteed as to payment of
10 all principal and all interest;

11 L. "institutional investor" means any of the
12 following, whether acting for itself or for others in a
13 fiduciary capacity:

14 (1) a depository institution or international
15 banking institution;

16 (2) an insurance company;

17 (3) a separate account of an insurance
18 company;

19 (4) an investment company as defined in the
20 federal Investment Company Act of 1940;

21 (5) a broker-dealer registered pursuant to the
22 federal Securities Exchange Act of 1934;

23 (6) an employee pension, profit-sharing or
24 benefit plan if the plan has total assets in excess of ten
25 million dollars (\$10,000,000) or its investment decisions are

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1 made by a named fiduciary, as defined in the federal Employee
2 Retirement Income Security Act of 1974, that is a
3 broker-dealer registered pursuant to the federal Securities
4 Exchange Act of 1934, an investment adviser registered or
5 exempt from registration pursuant to the federal Investment
6 Advisers Act of 1940, an investment adviser registered
7 pursuant to the New Mexico Uniform Securities Act, a
8 depository institution or an insurance company;

9 (7) a plan established and maintained by a
10 state, a political subdivision of a state or an agency or
11 instrumentality of a state or a political subdivision of a
12 state for the benefit of its employees, if the plan has total
13 assets in excess of ten million dollars (\$10,000,000) or its
14 investment decisions are made by a duly designated public
15 official or by a named fiduciary, as defined in the federal
16 Employee Retirement Income Security Act of 1974, that is a
17 broker-dealer registered pursuant to the federal Securities
18 Exchange Act of 1934, an investment adviser registered or
19 exempt from registration pursuant to the federal Investment
20 Advisers Act of 1940, an investment adviser registered
21 pursuant to the New Mexico Uniform Securities Act, a
22 depository institution or an insurance company;

23 (8) a trust, if it has total assets in excess
24 of ten million dollars (\$10,000,000), its trustee is a
25 depository institution and its participants are exclusively

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1 plans of the types identified in Paragraph (6) or (7) of this
2 subsection, regardless of the size of their assets, except a
3 trust that includes as participants self-directed individual
4 retirement accounts or similar self-directed plans;

5 (9) an organization described in Section
6 501(c)(3) of the federal Internal Revenue Code of 1986
7 (26 U.S.C. Section 501(c)(3)), corporation, Massachusetts
8 trust or similar business trust, limited liability company or
9 partnership, not formed for the specific purpose of acquiring
10 the securities offered, with total assets in excess of ten
11 million dollars (\$10,000,000);

12 (10) a small business investment company
13 licensed by the small business administration pursuant to
14 Section 301(c) of the federal Small Business Investment Act
15 of 1958 (15 U.S.C. Section 681(c)) with total assets in
16 excess of ten million dollars (\$10,000,000);

17 (11) a private business development company as
18 defined in Section 202(a)(22) of the federal Investment
19 Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22)) with
20 total assets in excess of ten million dollars (\$10,000,000);

21 (12) a federal covered investment adviser
22 acting for its own account;

23 (13) a "qualified institutional buyer", as
24 defined in Rule 144A(a)(i)(1), other than Rule 144A(a)(1)(H),
25 adopted pursuant to the federal Securities Act of 1933

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1 (17 C.F.R. 230.144A);

2 (14) a "major U.S. institutional investor" as
3 defined in Rule 15a-6(b)(4)(i)(17 C.F.R. 240.15a-6) adopted
4 pursuant to the federal Securities Exchange Act of 1934;

5 (15) any other person, other than an
6 individual, of institutional character with total assets in
7 excess of ten million dollars (\$10,000,000) not organized for
8 the specific purpose of evading the New Mexico Uniform
9 Securities Act; or

10 (16) any other person specified by rule
11 adopted or order issued pursuant to the New Mexico Uniform
12 Securities Act;

13 M. "insurance company" means a company organized as
14 an insurance company whose primary business is writing
15 insurance or reinsuring risks underwritten by insurance
16 companies and that is subject to supervision by the insurance
17 commissioner or a similar official or agency of a state;

18 N. "insured" means insured as to payment of all
19 principal and all interest;

20 O. "international banking institution" means an
21 international financial institution of which the United
22 States is a member and whose securities are exempt from
23 registration pursuant to the federal Securities Act of 1933;

24 P. "investment adviser" means a person that, for
25 compensation, engages in the business of advising others,

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1 either directly or through publications or writings, as to
2 the value of securities or the advisability of investing in,
3 purchasing or selling securities or that, for compensation
4 and as a part of a regular business, issues or promulgates
5 analyses or reports concerning securities. "Investment
6 adviser" includes a financial planner or other person that,
7 as an integral component of other financially related
8 services, provides investment advice to others for
9 compensation as part of a business or that holds itself out
10 as providing investment advice to others for compensation.

11 "Investment adviser" does not include:

12 (1) an investment adviser representative;
13 (2) a lawyer, accountant, engineer or teacher
14 whose performance of investment advice is solely incidental
15 to the practice of the person's profession;

16 (3) a broker-dealer or its agents whose
17 performance of investment advice is solely incidental to the
18 conduct of business as a broker-dealer and that does not
19 receive special compensation for the investment advice;

20 (4) a publisher, employee or columnist of a
21 bona fide newspaper, news magazine or business or financial
22 publication of general and regular circulation or an owner
23 operator, producer or employee of a cable, radio or
24 television network, station or production facility, if, in
25 either case:

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1 (a) the financial or business news or
2 advice is contained in a publication or broadcast
3 disseminated to the general public; and

4 (b) the content does not consist of
5 rendering advice on the basis of the specific investment
6 situation of each client;

7 (5) a federal covered investment adviser;

8 (6) a bank or a savings institution described
9 in Paragraph (2) of Subsection D of this section; or

10 (7) any other person excluded by rule adopted
11 or order issued pursuant to the New Mexico Uniform Securities
12 Act;

13 Q. "investment adviser representative" means an
14 individual employed by or associated with an investment
15 adviser or federal covered investment adviser and who makes
16 any recommendations or otherwise gives investment advice
17 regarding securities, manages accounts or portfolios of
18 clients, determines which recommendation or advice regarding
19 securities should be given, provides investment advice or
20 holds herself or himself out as providing investment advice,
21 receives compensation to solicit, offer or negotiate for the
22 sale of or for selling investment advice or supervises
23 employees who perform any of the foregoing. "Investment
24 adviser representative" does not include an individual who:

25 (1) performs only clerical or ministerial

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1 acts;

2 (2) is an agent whose performance of
3 investment advice is solely incidental to the individual
4 acting as an agent and who does not receive special
5 compensation for investment advisory services;

6 (3) is employed by or associated with a
7 federal covered investment adviser, unless the individual has
8 a place of business in New Mexico, as "place of business" is
9 defined by rule adopted pursuant to Section 203A of the
10 federal Investment Advisers Act of 1940 (15 U.S.C. Section
11 80b-3a) and is:

12 (a) an investment adviser representative,
13 as "investment adviser representative" is defined by rule
14 adopted pursuant to Section 203A of the federal Investment
15 Advisers Act of 1940 (15 U.S.C. Section 80b-3a); or

16 (b) not a supervised person as "supervised
17 person" is defined in Section 202(a)(25) of the federal
18 Investment Advisers Act of 1940 (15 U.S.C. Section
19 80b-2(a)(25)); or

20 (4) is excluded by rule adopted or order
21 issued pursuant to the New Mexico Uniform Securities Act;

22 R. "issuer" means a person that issues or proposes
23 to issue a security, subject to the following:

24 (1) the issuer of a voting trust certificate,
25 collateral trust certificate, certificate of deposit for a

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1 security or share in an investment company without a board of
2 directors or individuals performing similar functions is the
3 person performing the acts and assuming the duties of
4 depositor or manager pursuant to the trust or other agreement
5 or instrument under which the security is issued;

6 (2) the issuer of an equipment trust
7 certificate or similar security serving the same purpose is
8 the person by which the property is or will be used or to
9 which the property or equipment is or will be leased or
10 conditionally sold or that is otherwise contractually
11 responsible for assuring payment of the certificate; and

12 (3) the issuer of a fractional undivided
13 interest in an oil, gas or other mineral lease or in payments
14 out of production pursuant to a lease, right or royalty is
15 the owner of an interest in the lease or in payments out of
16 production pursuant to a lease, right or royalty, whether
17 whole or fractional, that creates fractional interests for
18 the purpose of sale;

19 S. "legal rate of interest" means the rate of
20 interest set by Subsection A of Section 56-8-4 NMSA 1978 or
21 its successor statutes;

22 T. "nonissuer transaction" or "nonissuer
23 distribution" means a transaction or distribution not
24 directly or indirectly for the benefit of the issuer;

25 U. "offer to purchase" includes an attempt or offer

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1 to obtain, or solicitation of an offer to sell, a security or
2 interest in a security for value. "Offer to purchase" does
3 not include a tender offer that is subject to Section 14(d)
4 of the federal Securities Exchange Act of 1934 (15 U.S.C.
5 78n(d));

6 V. "person" means an individual; corporation;
7 business trust; estate; trust; partnership; limited liability
8 company; association; joint venture; government; governmental
9 subdivision, agency or instrumentality; public corporation;
10 or any other legal or commercial entity;

11 W. "place of business" of a broker-dealer, an
12 investment adviser or a federal covered investment adviser
13 means:

14 (1) an office at which the broker-dealer,
15 investment adviser or federal covered investment adviser
16 regularly provides brokerage or investment advice or
17 solicits, meets with or otherwise communicates with customers
18 or clients; or

19 (2) a location that is held out to the general
20 public as a location at which the broker-dealer, investment
21 adviser or federal covered investment adviser provides
22 brokerage or investment advice or solicits, meets with or
23 otherwise communicates with customers or clients;

24 X. "predecessor act" means the New Mexico
25 Securities Act of 1986;

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1 Y. "price amendment" means the amendment to a
2 registration statement filed pursuant to the federal
3 Securities Act of 1933 or, if an amendment is not filed, the
4 prospectus or prospectus supplement filed pursuant to that
5 act that includes a statement of the offering price,
6 underwriting and selling discounts or commissions, amount of
7 proceeds, conversion rates, call prices and other matters
8 dependent upon the offering price;

9 Z. "principal place of business" of a
10 broker-dealer, investment adviser or federal covered
11 investment adviser means the executive office of the
12 broker-dealer, investment adviser or federal covered
13 investment adviser from which the officers, partners or
14 managers of the broker-dealer, investment adviser or federal
15 covered investment adviser direct, control and coordinate the
16 activities of the broker-dealer, investment adviser or
17 federal covered investment adviser;

18 AA. "record", except in the phrases "of record",
19 "official record" and "public record", means information that
20 is inscribed on a tangible medium or that is stored in an
21 electronic or other medium and is retrievable in perceivable
22 form;

23 BB. "sale" includes every contract of sale,
24 contract to sell or disposition of a security or interest in
25 a security for value, and "offer to sell" includes every

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1 attempt or offer to dispose of, or solicitation of an offer
2 to purchase, a security or interest in a security for value.

3 Both terms include:

4 (1) a security given or delivered with, or as
5 a bonus on account of, a purchase of securities or any other
6 thing constituting part of the subject of the purchase and
7 having been offered and sold for value;

8 (2) a gift of assessable stock involving an
9 offer and sale; and

10 (3) a sale or offer of a warrant or right to
11 purchase or subscribe to another security of the same or
12 another issuer and a sale or offer of a security that gives
13 the holder a present or future right or privilege to convert
14 the security into another security of the same or another
15 issuer, including an offer of the other security;

16 CC. "securities and exchange commission" means the
17 United States securities and exchange commission;

18 DD. "security" means a note; stock; treasury stock;
19 security future; bond; debenture; evidence of indebtedness;
20 certificate of interest or participation in a profit-sharing
21 agreement; collateral trust certificate; preorganization
22 certificate or subscription; transferable share; investment
23 contract; voting trust certificate; certificate of deposit
24 for a security; fractional undivided interest in oil, gas or
25 other mineral rights; put, call, straddle, option or

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1 privilege on a security, certificate of deposit or group or
2 index of securities, including an interest therein or based
3 on the value thereof; put, call, straddle, option or
4 privilege entered into on a national securities exchange
5 relating to foreign currency; or, in general, an interest or
6 instrument commonly known as a "security"; or a certificate
7 of interest or participation in, temporary or interim
8 certificate for, receipt for, guarantee of or warrant or
9 right to subscribe to or purchase any of the foregoing.

10 "Security":

11 (1) includes both a certificated and an
12 uncertificated security;

13 (2) does not include an insurance or endowment
14 policy or annuity contract pursuant to which an insurance
15 company promises to pay a fixed or variable sum of money
16 either in a lump sum or periodically for life or other
17 specified period;

18 (3) does not include an interest in a
19 contributory or noncontributory pension or welfare plan
20 subject to the federal Employee Retirement Income Security
21 Act of 1974;

22 (4) does not include landowner royalties in
23 the production of oil, gas or other minerals created through
24 the execution of a lease of the lessor's mineral interest;

25 (5) includes an investment in a common

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1 enterprise with the expectation of profits to be derived
2 primarily from the efforts of a person other than the
3 investor. As used in this paragraph, "common enterprise"
4 means an enterprise in which the fortunes of the investor are
5 interwoven with those of either the person offering the
6 investment, a third party or other investors;

7 (6) includes any interest in a limited
8 partnership or a limited liability company; and

9 (7) includes as an investment contract an
10 investment in a viatical settlement or similar agreement;

11 EE. "self-regulatory organization" means a national
12 securities exchange registered pursuant to the federal
13 Securities Exchange Act of 1934, a national securities
14 association of broker-dealers registered pursuant to that
15 act, a clearing agency registered pursuant to that act or the
16 municipal securities rulemaking board established pursuant to
17 that act;

18 FF. "sign" means, with present intent to
19 authenticate or adopt a record:

20 (1) to execute or adopt a tangible symbol; or

21 (2) to attach or logically associate with the
22 record an electronic symbol, sound or process;

23 GG. "state" means a state of the United States, the
24 District of Columbia, Puerto Rico, the United States Virgin
25 Islands or any territory or insular possession subject to the

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1 jurisdiction of the United States; and

2 HH. "underwriter" means any person who has
3 purchased from an issuer with the intent to offer or sell a
4 security or to distribute any security; who participates or
5 has a direct or indirect participation in any undertaking; or
6 who participates or has a participation in the direct or
7 indirect underwriting of any undertaking. "Underwriter" does
8 not include a person whose interest is limited to a
9 commission from an underwriter or dealer not in excess of the
10 usual and customary distributors' or sellers' commission. As
11 used in this subsection, "issuer" includes any person
12 directly or indirectly controlling or controlled by the
13 issuer; or any person under direct or indirect common control
14 with the issuer."

15 Section 77. Section 58-15-2 NMSA 1978 (being Laws 1955,
16 Chapter 128, Section 2, as amended) is amended to read:

17 "58-15-2. DEFINITIONS.--The following words and terms
18 when used in the New Mexico Small Loan Act of 1955 have the
19 following meanings unless the context clearly requires a
20 different meaning. The meaning ascribed to the singular form
21 applies also to the plural:

22 A. "consumer" means a person who enters into a loan
23 agreement and receives the loan proceeds in New Mexico;

24 B. "debit authorization" means an authorization
25 signed by a consumer to electronically transfer or withdraw

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1 funds from the consumer's account for the specific purpose of
2 repaying a loan;

3 C. "department" or "division" means the financial
4 institutions division of the [~~regulation and licensing~~]
5 commerce and economic development department;

6 D. "director" means the director of the division;

7 E. "installment loan" means a loan that is to be
8 repaid in a minimum of four successive substantially equal
9 payment amounts to pay off a loan in its entirety with a
10 period of [~~no~~] not less than one hundred twenty days to
11 maturity. "Installment loan" does not mean a loan in which a
12 licensee requires, as a condition of making the loan, the use
13 of postdated checks or debit authorizations for repayment of
14 that loan;

15 F. "license" means a permit issued under the
16 authority of the New Mexico Small Loan Act of 1955 to make
17 loans and collect charges therefor strictly in accordance
18 with the provisions of that act at a single place of
19 business. It shall constitute and shall be construed as a
20 grant of a revocable privilege only to be held and enjoyed
21 subject to all the conditions, restrictions and limitations
22 contained in the New Mexico Small Loan Act of 1955 and lawful
23 regulations promulgated by the director and not otherwise;

24 G. "licensee" means a person to whom one or more
25 licenses have been issued pursuant to the New Mexico Small

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1 Loan Act of 1955 upon the person's written application
2 electing to become a licensee and consenting to exercise the
3 privilege of a licensee solely in conformity with the New
4 Mexico Small Loan Act of 1955 and the lawful regulations
5 promulgated by the director under that act and whose name
6 appears on the face of the license;

7 H. "payday loan" means a loan in which the licensee
8 accepts a personal check or debit authorization tendered by
9 the consumer and agrees in writing to defer presentment of
10 that check or use of the debit authorization until the
11 consumer's next payday or another date agreed to by the
12 licensee and the consumer and:

13 (1) includes any advance of money or
14 arrangement or extension of credit whereby the licensee, for
15 a fee, finance charge or other consideration:

16 (a) accepts a dated personal check or
17 debit authorization from a consumer for the specific purpose
18 of repaying a payday loan;

19 (b) agrees to hold a dated personal check
20 or debit authorization from a consumer for a period of time
21 prior to negotiating or depositing the personal check or
22 debit authorization; or

23 (c) pays to the consumer, credits to the
24 consumer's account or pays another person on behalf of the
25 consumer the amount of an instrument actually paid or to be

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1 paid pursuant to the New Mexico Small Loan Act of 1955; but

2 (2) does not include:

3 (a) an overdraft product or service
4 offered by a banking corporation, savings and loan
5 association or credit union; and

6 (b) installment loans;

7 I. "payday loan product" means a payday loan or a
8 payment plan pursuant to Section 58-15-35 NMSA 1978;

9 J. "person" [~~includes~~] means an individual,
10 copartner, association, trust, corporation and any other
11 legal entity;

12 K. "renewed payday loan" means a loan in which a
13 consumer pays in cash the administrative fee payable under a
14 payday loan agreement and refinances all or part of the
15 unpaid principal balance of an existing payday loan with a
16 new payday loan from the same licensee. A "renewed payday
17 loan" includes a transaction in which a consumer pays off all
18 or part of an existing payday loan with the proceeds of a
19 payday loan from the same licensee; and

20 L. "simple interest" means a method of calculating
21 interest in which the amount of interest is calculated based
22 on the annual interest rate disclosed in the loan agreement
23 and is computed only on the outstanding principal balance of
24 the loan."

25 Section 78. Section 58-16-3 NMSA 1978 (being Laws 1990,

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1 Chapter 123, Section 3, as amended) is amended to read:

2 "58-16-3. DEFINITIONS.--

3 A. As used in the Remote Financial Service Unit
4 Act:

5 (1) "account" means an account maintained by a
6 cardholder or merchant with a financial institution or with a
7 state agency, which term shall include demand deposit,
8 checking, negotiable order of withdrawal (NOW) share, share
9 draft, public assistance benefit or other consumer or asset
10 accounts or preauthorized credit card accounts;

11 (2) "account transfer" means a transaction
12 that enables movement of funds by a cardholder from one
13 account to another account within the same financial
14 institution;

15 (3) "acquirer" means the intercept processor
16 that acquires financial data relating to a transaction from a
17 card acceptor or a merchant and puts the data into a network
18 system and means "agent acquirer" unless specifically
19 indicated otherwise;

20 (4) "agent acquirer" means any financial
21 institution acting as an authorized agent of the acquirer in
22 enabling financial data relating to a POS transaction to be
23 acquired by the acquirer from a card acceptor or merchant and
24 means "acquirer" unless specifically indicated otherwise;

25 (5) "ATM transaction" means any one or more of

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1 the following transactions undertaken at an automated teller
2 machine (ATM):

- 3 (a) a cash advance from an account;
- 4 (b) a cash advance from an authorized line
5 of credit;
- 6 (c) a deposit to an account;
- 7 (d) a balance inquiry;
- 8 (e) an account transfer; and
- 9 (f) a normal financial transaction for a
10 cardholder involving the issuance of non-cash or cash-
11 equivalent items; provided, however, that normal financial
12 transactions at an ATM will expressly exclude any POS
13 transaction;

14 (6) "authorization" means the issuance of
15 approval, by or on behalf of the financial institution
16 holding the cardholder's account, to complete a transaction
17 initiated or authorized by the cardholder;

18 (7) "automated teller machine" or "ATM" means
19 an unmanned device that is activated by the cardholder
20 through a specially prepared card or by the transmission of a
21 code via a keyboard or keyset or both and is capable of one
22 or more of the following transactions:

- 23 (a) dispensing cash to any cardholder from
24 an account or against a preauthorized line of credit;
- 25 (b) accepting deposits;

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1 (c) account transfers;

2 (d) satisfying a balance inquiry in the
3 cardholder's account or accounts; and

4 (e) conducting normal financial
5 transactions involving the issuance of non-cash or cash-
6 equivalent items; provided, however, that normal financial
7 transactions at an ATM will expressly exclude a transaction
8 that can only be initiated and completed at a POS terminal;

9 (8) "balance inquiry" means a transaction that
10 permits a cardholder to obtain the current balance of the
11 cardholder's account or accounts;

12 (9) "card" means a plastic card or other
13 instrument or any other access device issued by a financial
14 institution or by a state agency to a cardholder that enables
15 the cardholder to have access to and that processes
16 transactions against one or more accounts, and the term shall
17 be used when referring either to an ATM access card, a debit
18 card, a credit card identifying a cardholder who has
19 established a pre-approved credit line with the issuer of the
20 credit card or an EBT card issued to a recipient of public
21 assistance benefits;

22 (10) "card acceptor" means the party accepting
23 the card and presenting transaction data to an acquirer;

24 (11) "cardholder" means a person to whom a
25 card has been issued by a financial institution or who is

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1 authorized to use the card;

2 (12) "cash advance" means any transaction
3 resulting in a cardholder receiving cash, whether initiated
4 through an ATM or a POS terminal;

5 (13) "chargeback" means the credit of all or a
6 portion of an amount previously posted to a cardholder's
7 account;

8 (14) "clearing account" means an account or
9 several accounts maintained for the purpose of settlement and
10 payment of fees to the network manager;

11 (15) "credit" means a claim for funds by the
12 cardholder for the credit of the cardholder's account and
13 provides details of funds acknowledged as payable by the
14 acquirer or card acceptor to the issuer for credit to the
15 cardholder's account;

16 (16) "credit card cash advance" means a cash
17 loan obtained by a cardholder against a preauthorized line of
18 credit through presentation of a card;

19 (17) "data interchange" means the exchange of
20 transaction data, authorization requests, transaction records
21 or other data between intercept processors and acquirers and
22 issuers through a shared system or network;

23 (18) "debit" means a transaction initiated by
24 a cardholder that results in the debit to the cardholder's
25 account, through use of a card or otherwise, and results in a

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1 claim for funds made by the acquirer or card acceptor against
2 the issuer;

3 (19) "director" means the director of the
4 financial institutions division of the [~~regulation and~~
5 ~~licensing~~] commerce and economic development department;

6 (20) "electronic benefit transfer" or "EBT"
7 means a system administered by a state agency designed to
8 provide a public assistance benefit or other benefit of money
9 value provided by a state agency through POS terminals;

10 (21) "electronic benefit transfer card" or
11 "EBT card" means a plastic card or any other access device
12 issued by a state agency to a cardholder that enables the
13 cardholder to have access to and process transactions against
14 one or more public assistance benefit accounts or other
15 benefit accounts;

16 (22) "electronic funds transfer" or "EFT"
17 means a system designed to facilitate the exchange of
18 monetary value via electronic media utilizing electronic or
19 mechanical signals or impulses or a combination of electronic
20 or mechanical impulses and audio, radio or microwave
21 transmissions;

22 (23) "financial institution" means an insured
23 state or national bank, a state or federal savings and loan
24 association or savings bank, a state or federal credit union
25 or authorized branches of each of the foregoing;

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1 (24) "in-state financial institution" means a
2 financial institution authorized to engage in and engaged in
3 business in New Mexico and having its main office or a
4 staffed branch within the state;

5 (25) "intercept processor" means any
6 electronic data processor operating for a financial
7 institution that passes transactions;

8 (26) "issuer" means a financial institution
9 that issues cards or accepts transactions for a card, is the
10 acceptor of a transaction and is typically, but not always,
11 the entity that maintains the account relationship with the
12 cardholder;

13 (27) "lobby ATM" or "teller-line ATM" means
14 any ATM located within the lobby of a financial institution
15 or in its teller line, access to which is available only
16 during regular banking hours;

17 (28) "merchant" means a seller of goods or
18 services, retailer or other person who, pursuant to an
19 agreement with a financial institution, agrees to accept or
20 causes its outlets to accept cards for EFT transactions when
21 properly presented, is usually a card acceptor and is a
22 seller of goods and services who is regularly and principally
23 engaged in the business of selling, leasing or renting goods,
24 selling or leasing services for any purpose or selling
25 insurance, whether the business is a wholesale or retail

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1 business and whether the goods or services are for business,
2 agricultural, personal, family or household purposes.

3 "Merchant" includes a professional licensed by the state [~~of~~
4 ~~New Mexico~~], but does not include financial institutions;

5 (29) "modem" is a contraction of "modulator-
6 demodulator" and means a functional unit that enables digital
7 data to be transmitted over analog transmission facilities
8 such as telephone lines, radio or microwave transmissions;

9 (30) "network" means a computer-operated
10 system of transmitting items and messages between ATM or POS
11 terminals, intercept [~~processor~~] processors and financial
12 institutions and settling transactions between financial
13 institutions, and includes without limitation, ATMs, POS
14 terminals, all related computer hardware and software,
15 modems, logos and service marks;

16 (31) "network manager" means the person
17 managing the business of a network;

18 (32) "off-line" means not on-line;

19 (33) "off-premises ATM" means ATMs installed
20 away from the building or lobby of a financial institution by
21 a distance of not less than five hundred feet;

22 (34) "on-line" means a system in which all
23 input data [~~enters~~] enter the computer at a financial
24 institution, an intercept processor or the network from its
25 point of origin and that is capable of transmitting

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1 information back to the point of origin after all input data
2 [~~is~~] are processed and [~~requires~~] require a personal
3 identification number;

4 (35) "on-premises ATM" means an ATM that
5 stands in or immediately adjacent to the financial
6 institution's building, such as in the financial
7 institution's lobby, through the wall or at a drive-up ATM
8 within five hundred feet of the financial institution's
9 building;

10 (36) "person" means an individual,
11 partnership, joint venture, corporation or other legal entity
12 however organized;

13 (37) "personal identification number" or "PIN"
14 means a series of numbers or letters selected for or by the
15 cardholder and used by the cardholder as a code or password
16 in conjunction with a card to perform a transaction;

17 (38) "point-of-sale terminal" or "POS
18 terminal" means an information processing device or machine,
19 located upon the premises occupied by one or more merchants,
20 through which transaction messages are initiated and
21 electronically transmitted to an acquirer to effectuate a POS
22 transaction and that accepts debit cards, credit cards and
23 EBT cards;

24 (39) "POS transaction" means any of the
25 following transactions undertaken at a POS terminal:

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- 1 (a) purchases;
- 2 (b) purchases that include cash back to
- 3 the cardholder;
- 4 (c) cash advances at POS terminals;
- 5 (d) returned item transaction message
- 6 resulting in a credit to the cardholder's account;
- 7 (e) a credit;
- 8 (f) an authorization;
- 9 (g) chargebacks at POS terminals;
- 10 (h) card verification whereby the validity
- 11 of a card is determined at POS terminals;
- 12 (i) balance inquiries at POS terminals;
- 13 and
- 14 (j) force post financial advice at POS
- 15 terminals whereby any other transaction authorized by an
- 16 issuer-approved stand-in processor requires settlement
- 17 resulting in a debit to the cardholder's account.

18 Nothing in this paragraph shall be construed to include

19 credit card transactions;

20 (40) "public assistance benefit" means a

21 benefit of monetary value available from various state and

22 federal public benefit programs administered through or

23 enforced by a state agency;

24 (41) "purchase" means a transaction that, if

25 approved, results in a debit transaction for the payment of

1 goods and services or may include cash paid to the cardholder
2 of some part of the amount of the transaction;

3 (42) "receipt" means a hard-copy description
4 of a transaction:

5 (a) for the purposes of the Remote
6 Financial Service Unit Act, if the transaction is an ATM
7 transaction, the receipt shall contain, at a minimum: 1) the
8 date of the ATM transaction; 2) the amount of the ATM
9 transaction, if any; 3) the account number; 4) the type of
10 account accessed; 5) the location of the ATM used in the ATM
11 transaction; 6) the identity of any party or account to which
12 funds are transferred; and 7) the type of ATM transaction
13 completed; and

14 (b) for the purposes of the Remote
15 Financial Service Unit Act, if the transaction is a POS
16 transaction, the receipt shall contain, at a minimum: 1) the
17 date of the POS transaction; 2) the amount of the POS
18 transaction, if any; 3) the account number; 4) the type of
19 account accessed; 5) the merchant's name and location; and 6)
20 the type of POS transaction completed;

21 (43) "remote financial service unit" means a
22 POS terminal or an ATM;

23 (44) "returned item transaction message" means
24 a credit message generated by the acquirer or by the merchant
25 that returns the value of the returned item to the

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1 cardholder's account;

2 (45) "settlement" means the process by which
3 funds are transferred between financial institutions,
4 intercept processors or networks in the flow of a transaction
5 or in the payment of fees associated with the transaction;

6 (46) "shared ATM or POS terminals" means ATM
7 or POS terminals that are shared among financial institutions
8 by formal agreement for the purposes of cardholder
9 convenience, reduction of capital investment and marketing
10 advantage;

11 (47) "single subscriber terminal" means any
12 terminal or set of terminals used to connect a single
13 customer of a financial institution to ~~[his]~~ that customer's
14 financial institution through which EFT messages are sent and
15 completed, other than transactions;

16 (48) "switch" means a routing mechanism and
17 any device attached thereto that is necessary for the
18 processing of a transaction used to communicate information
19 and transactions among participating financial institutions
20 or their intercept processors in a shared system or network;

21 (49) "transaction" means a collection of
22 electronic messages concluded by:

23 (a) a debit to or a credit from an
24 account;

25 (b) a balance inquiry;

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1 (c) the consummation of a normal financial
2 transaction; or

3 (d) a rejected attempt of any one of those
4 matters provided in Subparagraphs (a) through (c) of this
5 paragraph;

6 (50) "unauthorized use of the card of another"
7 means the utilization of the card in or through a remote
8 financial service unit to affect the balance of or obtain
9 information concerning the account of the cardholder by a
10 person other than the cardholder, which person does not have
11 the permission of the cardholder for such use; and

12 (51) "unauthorized withdrawal from the account
13 of another" means the debiting of or removal of funds from a
14 cardholder's account, accomplished by means of the
15 utilization of a remote financial service unit by a person
16 other than the cardholder, which person does not have actual,
17 implied or apparent authority for the debiting or removal and
18 from which debiting or removal the cardholder receives no
19 benefit.

20 B. Any of the information provided pursuant to
21 Subparagraphs (a) and (b) of Paragraph (42) of Subsection A
22 of this section may be provided using codes, numbers or other
23 uniform explanations so long as they are explained elsewhere
24 on the receipt.

25 C. No receipt shall be required in any transaction

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1 involving a negotiable instrument that will itself become a
2 receipt.

3 D. Any term used in the Remote Financial Service
4 Unit Act but not specifically defined shall have the meaning
5 given to that term by the Uniform Commercial Code."

6 Section 79. Section 58-17-3 NMSA 1978 (being Laws 2001,
7 Chapter 149, Section 3) is amended to read:

8 "58-17-3. DEFINITIONS.--As used in the Endowed Care
9 Cemetery Act:

10 A. "affiliate" means a corporation that is related
11 to another corporation by shareholdings or other means of
12 control and includes a subsidiary, parent or sibling
13 corporation;

14 B. "burial park" means a tract of land that has
15 been dedicated to the purposes of and used, and intended to
16 be used, for the interment of remains in graves;

17 C. "care funds" means realty or personalty
18 impressed with a trust by the terms of a gift, grant,
19 contribution, payment, devise, bequest or contract, and
20 income accumulated therefrom where legally so directed by the
21 terms of the transaction by which the principal was
22 established;

23 D. "cemetery" means a place dedicated to and used
24 and intended to be used for the permanent interment of
25 remains;

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1 E. "cemetery authority" means a person that owns,
2 operates, controls or manages a cemetery or holds lands for
3 burial purposes;

4 F. "columbarium" means a structure or space in a
5 structure used, or intended to be used, to contain cremated
6 remains;

7 G. "cremated remains" means remains after
8 incineration in a crematory;

9 H. "cremation" means the irreversible process of
10 reducing remains to bone fragments through intense heat and
11 evaporation in a specifically designed furnace or retort and
12 includes a mechanical or thermal process whereby the bone
13 fragments are pulverized, or otherwise further reduced in
14 size or quantity;

15 I. "crematory" means a structure of most durable
16 and lasting fireproof construction containing one or more
17 specifically designed furnaces or retorts, used, or intended
18 to be used, for cremation of remains;

19 J. "crypt" means the chamber in a mausoleum of
20 sufficient size to entomb the remains;

21 K. "depository institution" means an insured bank,
22 thrift institution or credit union;

23 L. "director" means the director of the financial
24 institutions division of the [~~regulation and licensing~~]
25 commerce and economic development department;

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1 M. "endowed care" means the general maintenance of
2 the cemetery area dedicated to endowed care, including the
3 cutting and trimming of lawns, shrubs and trees at reasonable
4 intervals, keeping all places where interments have been made
5 in proper order and keeping in repair the drains, waterlines,
6 roads, buildings, fences and other structures consistent with
7 a well-maintained cemetery; "endowed care" includes overhead
8 expenses necessary for the foregoing purposes, including
9 maintenance of machinery, tools and equipment, compensation
10 of employees for the performance of duties related to endowed
11 care, including reasonable payments for employees' pension
12 and other benefit plans, payment of reasonable and necessary
13 insurance premiums, the maintenance of necessary records of
14 lot ownership, transfers and burials and the administration
15 of care funds in those instances where those administering
16 the funds fail or refuse to act;

17 N. "endowed or perpetual care cemetery" means a
18 cemetery or that designated portion of a cemetery for the
19 benefit of which a care fund is established;

20 O. "entombment" means the permanent interment of
21 remains in a crypt or vault;

22 P. "fraternal cemetery" means a cemetery owned,
23 operated, controlled or managed by any fraternal organization
24 or its auxiliary organizations, in which the sale of burial
25 space is restricted principally to its members;

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1 Q. "grave" means a space of ground in a burial park
2 intended to be used for the permanent interment in the ground
3 of remains;

4 R. "interment" means the permanent disposition of
5 the remains by inurnment, entombment or burial;

6 S. "inurnment" means placing cremated remains in an
7 urn;

8 T. "lot", "plot" or "burial space" means space in a
9 cemetery owned by one or more individuals, an association or
10 fraternal or other organization and used, or intended to be
11 used, for the permanent interment of the remains of one or
12 more deceased persons and includes adjoining graves,
13 adjoining crypts or adjoining niches;

14 U. "mausoleum" means a structure or building of
15 most durable and lasting fireproof construction used or
16 intended to be used for the permanent interment in crypts of
17 remains;

18 V. "municipal cemetery" means a cemetery owned,
19 operated, controlled or managed by a incorporated or
20 unincorporated political subdivision;

21 W. "niche" means a recess in a columbarium used, or
22 intended to be used, for the permanent interment of cremated
23 remains;

24 X. "no endowed care cemetery" means a cemetery for
25 the benefit of which no care fund has been established;

1 Y. "plot owner", "owner" or "lot proprietor" means
2 a person in whose name a burial plot is recorded in the
3 office of the cemetery authority as owner of the exclusive
4 right of burial, or who holds from the authority a conveyance
5 of the exclusive rights of burial or a certificate of
6 ownership of the exclusive right of burial;

7 Z. "religious cemetery" means a cemetery owned,
8 operated, controlled or managed by a recognized church,
9 religious society, association or denomination, or by a
10 cemetery authority or a corporation administering, or through
11 which is administered the secular matters of a recognized
12 church, religious society, association or denomination;

13 AA. "remains" means the body of a deceased person;
14 and

15 BB. "vault" means a container that is designed for
16 placement in a grave space around a casket or urn."

17 Section 80. Section 58-18B-3 NMSA 1978 (being Laws
18 1994, Chapter 146, Section 3, as amended) is amended to read:

19 "58-18B-3. DEFINITIONS.--As used in the Low-Income
20 Housing Trust Act:

21 A. "appropriate financial institution service
22 charges and fees" means those service charges and fees that a
23 financial institution charges its customers on demand deposit
24 accounts;

25 B. "division" means the financial institutions

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1 division of the [~~regulation and licensing~~] commerce and
2 economic development department;

3 C. "escrow closing agent" means an escrow agent
4 other than a title company that acts in the normal course of
5 business as the agent of the seller and buyer of real estate
6 for the purpose of consummating a sale, including the
7 performance of the following functions:

8 (1) preparation of deeds, mortgages,
9 promissory notes, deeds of trust, real estate contracts,
10 assignments or other documents incidental to the sale as
11 permitted by law;

12 (2) calculations and disbursements of prorated
13 taxes, insurance premiums, utility bills and other charges
14 incidental to the sale;

15 (3) preparation of sellers' and buyers'
16 closing statements;

17 (4) supervision of signing of documents;

18 (5) collection and disbursement of down
19 payments, realtors' commissions, fees and other charges
20 pursuant to a sales agreement; and

21 (6) recordation of documents;

22 D. "escrow servicing agent" means a person who in
23 the normal course of business collects and disburses funds
24 received from real estate-related financing instruments on
25 behalf of a lender or borrower;

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1 E. "first-time home buyer" means:

2 (1) [~~an individual~~] a person or the
3 [~~individual's~~] person's spouse who has not owned a home other
4 than a manufactured home during the three-year period prior
5 to the purchase of a home; or

6 (2) [~~an individual~~] a person who is a
7 displaced homemaker or a single parent;

8 F. "fund" means the land title trust fund created
9 pursuant to the provisions of the Land Title Trust Fund Act;

10 G. "low-income persons" means a household
11 consisting of a single [~~individual~~] person or a family or
12 unrelated [~~individuals~~] persons living together when the
13 household's total annual income does not exceed eighty
14 percent of the median income for the area, as determined by
15 the United States department of housing and urban development
16 and as adjusted for family size, or other income ceiling
17 determined for the area on the basis of that department's
18 findings that such variations are necessary because of
19 prevailing levels of construction costs or fair market rents
20 or unusually high or low family incomes;

21 H. "person" means an individual or any other legal
22 entity;

23 I. "property manager" means a person who acts in
24 the normal course of business as the agent for the owner of
25 real property for the purpose of property rental, leasing and

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1 management; and

2 J. "trustee" means the New Mexico mortgage finance
3 authority."

4 Section 81. Section 58-19-2 NMSA 1978 (being Laws 1959,
5 Chapter 204, Section 2, as amended) is amended to read:

6 "58-19-2. DEFINITIONS.--As used in the Motor Vehicle
7 Sales Finance Act:

8 A. "motor vehicles" means automobiles, recreational
9 vehicles, recreational travel trailers, trailers,
10 motorcycles, trucks, semi-trailers, truck tractors and buses
11 designed and used primarily to transport persons or property
12 on a public highway, farm machinery and all vehicles new or
13 used, with any power other than muscular power except boat
14 trailers, aircraft or any vehicle that runs only on rails or
15 tracks, but does not include any motor vehicle having a gross
16 vehicle weight of ten thousand pounds or more purchased
17 primarily for business or commercial purposes;

18 B. "retail buyer" or "buyer" means a person who
19 buys a motor vehicle primarily for personal, family or
20 household purposes from a retail seller and who executes a
21 retail installment contract in connection therewith;

22 C. "retail seller" or "seller" means a person who
23 sells a motor vehicle to a retail buyer or subject to a
24 retail installment contract;

25 D. "holder" of a retail installment contract means

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1 the retail seller of the motor vehicle under or subject to
2 the contract or, if the contract is purchased by a sales
3 finance company or other assignee, the sales finance company
4 or other assignee;

5 E. "retail installment transaction" means any
6 transaction evidenced by a retail installment contract
7 entered into between a retail buyer and a retail seller
8 wherein the retail buyer buys a motor vehicle from the retail
9 seller at a time price payable in one or more deferred
10 installments. The cash sale price of the motor vehicle, the
11 amount included for insurance and other benefits if a
12 separate charge is made therefor, official fees and the
13 finance charge together constitute the time price;

14 F. "retail installment contract" or "contract"
15 means an agreement, entered into in this state or made
16 subject to the laws of this state, pursuant to which the
17 title to or a lien upon the motor vehicle that is the subject
18 matter of a retail installment transaction is retained or
19 taken by a retail seller from a retail buyer as security for
20 the buyer's obligation. The term includes a chattel
21 mortgage, a conditional sales contract and a contract for the
22 bailment or leasing of a motor vehicle by which the bailee or
23 lessee contracts to pay as compensation for its use a sum
24 substantially equivalent to or in excess of its value and by
25 which it is agreed that the bailee or lessee is bound to

1 become or has the option of becoming the owner of the motor
2 vehicle upon full compliance with the provisions of the
3 contract;

4 G. "cash sale price" means the price stated in a
5 retail installment contract for which the seller would have
6 sold to the buyer, and the buyer would have bought from the
7 seller, the motor vehicle that is the subject matter of the
8 retail installment contract, if the sale had been a sale for
9 cash instead of a retail installment transaction. Cash sale
10 price may include any taxes, registration fee, certificate of
11 title fee, license and other fees and charges for accessories
12 and their installation and for delivery, servicing, repairing
13 or improving the motor vehicle;

14 H. "official fees" means the fee prescribed by law
15 for filing, recording or otherwise perfecting and releasing
16 or satisfying a retained title or a lien created by a retail
17 installment contract;

18 I. "finance charge" means the amount agreed upon
19 between the buyer and the seller to be added to the aggregate
20 of the cash sale price, the amount, if any, included for
21 insurance and other benefits and official fees, in
22 determining the time price;

23 J. "person" means an individual, partnership,
24 corporation, association and any other group however
25 organized;

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1 K. "sales finance company" means a person engaged
2 in whole or in part in the business of purchasing retail
3 installment contracts from one or more retail sellers. The
4 term includes but is not limited to a bank, trust company,
5 private banker, small loan licensee, industrial bank or
6 investment company, if so engaged; the term also includes a
7 retail seller engaged in whole or in part in the business of
8 creating and holding retail installment contracts that exceed
9 a total aggregate outstanding indebtedness of one hundred
10 thousand dollars (\$100,000);

11 L. "director" means the director of the financial
12 institutions division of the [~~regulation and licensing~~]
13 commerce and economic development department; and

14 M. "year" means a period of three hundred sixty-
15 five days; "month" means one-twelfth of a year; and "day"
16 means one three-hundred-sixty-fifth of a year."

17 Section 82. Section 58-21-2 NMSA 1978 (being Laws 1983,
18 Chapter 86, Section 2, as amended) is amended to read:

19 "58-21-2. DEFINITIONS.--As used in the Mortgage Loan
20 Company Act:

21 A. "affiliate" means a person who, directly or
22 indirectly, through one or more intermediaries, controls or
23 is controlled by or is under common control with another
24 person;

25 B. "branch office" means any location, including a

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1 divisional office, separate from the principal place of
2 business of the mortgage loan company that is identified by
3 any means to the public or customers as a location at which
4 the licensee holds itself out as a mortgage loan company;

5 C. "closing agent" means a person, including a
6 title insurance agent or title insurance company, that acts
7 in the normal course of business in a fiduciary capacity as a
8 disinterested third party for the seller and buyer of real
9 property for the purpose of consummating a sale of real
10 property, including the performance of the following
11 functions:

12 (1) preparation of deeds, mortgages,
13 promissory notes, deeds of trust, real estate contracts,
14 assignments or other documents incidental to the sale as
15 permitted by law;

16 (2) calculations and disbursements of prorated
17 taxes, insurance premiums, utility bills and other charges
18 incidental to the sale;

19 (3) preparation of sellers' and buyers'
20 closing statements;

21 (4) supervision of signing of documents;

22 (5) collection and disbursement of down
23 payments, commissions of real estate licensees, fees and
24 other charges pursuant to a sales agreement; and

25 (6) recordation of documents;

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1 D. "division" means the financial institutions
2 division of the [~~regulation and licensing~~] commerce and
3 economic development department;

4 E. "director" means the director of the [~~financial~~
5 ~~institutions~~] division [~~of the regulation and licensing~~
6 ~~department~~];

7 F. "dwelling" means a residential structure that
8 contains one to four units whether or not that structure is
9 attached to real property. "Dwelling" includes an individual
10 condominium unit, an individual cooperative unit, a mobile
11 home and a trailer if used as a residence;

12 G. "individual" means a natural person;

13 H. "lender" means a person or government agency
14 making a mortgage loan;

15 I. "mortgage loan company" means any person who,
16 for compensation or gain, or in the expectation of
17 compensation or gain, either directly or indirectly:

18 (1) accepts an application for a mortgage
19 loan; negotiates terms for a mortgage loan; or solicits,
20 processes, originates, brokers or makes mortgage loans for
21 others;

22 (2) offers to:

23 (a) accept an application for a mortgage
24 loan;

25 (b) negotiate terms for a mortgage loan;

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1 or

2 (c) solicit, process, originate, broker or
3 make mortgage loans for others; or

4 (3) closes mortgage loans that may be in the
5 mortgage loan company's own name with funds provided by
6 others and that are assigned to the mortgage lenders
7 providing the funding of such loans;

8 J. "mortgage loan" means any loan primarily for
9 personal, family or household use that is secured by a
10 mortgage, deed of trust or other equivalent consensual
11 security interest on a dwelling or residential real estate
12 upon which is constructed or intended to be constructed a
13 dwelling as so defined;

14 K. "net loan funds" means the mortgage loan amounts
15 specified in the note and mortgage less lender-retained fees,
16 as specified in the lender's instruction to the closing
17 agent;

18 L. "person" means [~~a natural person~~] an individual,
19 corporation, company, limited liability company, partnership
20 or association;

21 M. "qualified manager" means an individual,
22 designated by a mortgage loan company, responsible for the
23 activities of the licensed mortgage loan company's office,
24 divisional office or branch office in conducting the business
25 of that mortgage loan company's office, divisional office or

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1 branch office and who meets requirements as specified by the
2 director; and

3 N. "servicer" means a person who collects or
4 receives payments, including principal, interest and trust
5 items such as hazard insurance, property taxes and other
6 amounts due, on behalf of a note holder or investor in
7 accordance with the terms of a residential mortgage loan, and
8 includes working with a borrower on behalf of a note holder
9 or investor, when the borrower is in financial hardship or
10 default, to modify either temporarily or permanently the
11 terms of an existing mortgage loan."

12 Section 83. Section 58-21A-5 NMSA 1978 (being Laws
13 2003, Chapter 436, Section 5, as amended) is amended to read:

14 "58-21A-5. LIMITATIONS AND PROHIBITED PRACTICES FOR
15 HIGH-COST HOME LOANS.--

16 A. No creditor or mortgage loan originator making a
17 high-cost home loan shall directly or indirectly finance any
18 points or fees in excess of two percent of the principal loan
19 amount.

20 B. No creditor shall make a high-cost home loan
21 that contains a provision that increases the interest rate
22 after default, provided that this provision does not apply to
23 interest rate changes in a variable rate loan otherwise
24 consistent with the provisions of the loan documents if the
25 change in the interest rate is not triggered by the event of

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1 default or the acceleration of the indebtedness.

2 C. Without regard to whether a borrower is acting
3 individually or on behalf of others similarly situated, a
4 provision of a high-cost home loan agreement that allows a
5 party to require a borrower to assert any claim or defense in
6 a forum that is less convenient, more costly or more dilatory
7 for the resolution of a dispute than a judicial forum where
8 the borrower may otherwise properly bring a claim or defense
9 or limits in any way any claim or defense the borrower may
10 have is unconscionable and void.

11 D. No creditor or mortgage loan originator shall
12 make a high-cost home loan without first receiving
13 certification from a third-party, nonprofit counselor
14 approved by the United States department of housing and urban
15 development, the New Mexico mortgage finance authority or the
16 director of the financial institutions division of the
17 [~~regulation and licensing~~] commerce and economic development
18 department that the borrower has received counseling on the
19 advisability of the loan transaction.

20 E. A creditor or mortgage loan originator shall not
21 make a high-cost home loan unless the creditor has given the
22 following notice, or a substantially similar notice, in
23 writing, to the borrower, acknowledged in writing and signed
24 by the borrower not later than the time the notice is
25 required under the notice provision contained in 12 C.F.R.

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1 s.226.31(c):

2 NOTICE TO BORROWER

3 YOU SHOULD BE AWARE THAT YOU MIGHT BE ABLE TO
4 OBTAIN A LOAN AT A LOWER COST. YOU SHOULD SHOP
5 AROUND AND COMPARE LOAN RATES AND FEES. MORTGAGE
6 LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON
7 MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND
8 FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY,
9 THE LOAN-TO-VALUE REQUESTED AND THE TYPE OF PROPERTY
10 THAT WILL SECURE YOUR LOAN. THE LOAN RATE AND FEES
11 COULD ALSO VARY BASED ON WHICH CREDITOR OR BROKER
12 YOU SELECT.

13 IF YOU ACCEPT THE TERMS OF THIS LOAN, THE
14 CREDITOR WILL HAVE A MORTGAGE LIEN ON YOUR HOME.
15 YOU COULD LOSE YOUR HOME AND ANY MONEY YOU PUT INTO
16 IT IF YOU DO NOT MEET YOUR PAYMENT OBLIGATIONS UNDER
17 THE LOAN.

18 YOU SHOULD CONSULT AN ATTORNEY-AT-LAW AND A
19 QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER
20 EXPERIENCED FINANCIAL ADVISOR REGARDING THE RATE,
21 FEES AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU
22 PROCEED. A LIST OF QUALIFIED COUNSELORS IS
23 AVAILABLE BY CONTACTING THE NEW MEXICO REGULATION
24 AND LICENSING DEPARTMENT.

25 YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN

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1 AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS
2 DISCLOSURE OR HAVE SIGNED A LOAN APPLICATION.
3 REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE
4 ARE YOUR RESPONSIBILITY. NOT ALL CREDITORS PROVIDE
5 ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK
6 YOUR CREDITOR ABOUT THESE SERVICES.

7 ALSO, YOUR PAYMENTS ON EXISTING DEBTS
8 CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT
9 ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO
10 YOUR EXISTING CREDITORS."

11 Section 84. Section 58-21B-3 NMSA 1978 (being Laws
12 2009, Chapter 122, Section 3) is amended to read:

13 "58-21B-3. DEFINITIONS.--As used in the New Mexico
14 Mortgage Loan Originator Licensing Act:

15 A. "clerical or support duties" may include,
16 subsequent to the receipt of an application:

17 (1) the receipt, collection, distribution and
18 analysis of information common for the processing or
19 underwriting of a residential mortgage loan; and

20 (2) communicating with a consumer to obtain
21 the information necessary for the processing or underwriting
22 of a loan, to the extent that such communication does not
23 include offering or negotiating loan rates or terms or
24 counseling consumers about residential mortgage loan rates or
25 terms;

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1 B. "depository institution" has the same meaning as
2 the definition of depository institution in Section 3 of the
3 Federal Deposit Insurance Act and includes any credit union;

4 C. "director" means the director of the financial
5 institutions division of the [~~regulation and licensing~~]
6 commerce and economic development department;

7 D. "dwelling" means a residential structure that
8 contains one to four units whether or not that structure is
9 attached to real property. "Dwelling" includes an individual
10 condominium unit, an individual cooperative unit, a mobile
11 home and a trailer if used as a residence;

12 E. "federal banking agencies" means the board of
13 governors of the federal reserve system, the comptroller of
14 the currency, the director of the office of thrift
15 supervision, the national credit union administration and the
16 federal deposit insurance corporation;

17 F. "immediate family member" means a spouse, child,
18 sibling, parent, grandparent or grandchild, and "immediate
19 family member" includes a stepparent, a stepchild, a
20 stepsibling and an adoptive relationship;

21 G. "individual" means a natural person;

22 H. "license" means a license issued pursuant to
23 Section [~~6 of the New Mexico Mortgage Loan Originator~~
24 Licensing Act] 58-21B-6 NMSA 1978;

25 I. "loan processor or underwriter" means an

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1 individual who performs clerical or support duties as an
2 employee at the direction of and subject to the supervision
3 and instruction of a person licensed, or exempt from
4 licensing, pursuant to the Mortgage Loan Company Act;

5 J. "mortgage loan company" means any person defined
6 as such in the Mortgage Loan Company Act;

7 K. "mortgage loan originator" means an individual
8 who for compensation or gain or in the expectation of
9 compensation or gain takes a residential mortgage loan
10 application or offers or negotiates terms of a residential
11 mortgage loan. "Mortgage loan originator" does not include:

12 (1) an individual engaged solely as a loan
13 processor or underwriter except as otherwise provided in
14 Subsection I of this section;

15 (2) a person that only performs real estate
16 brokerage activities and is licensed or registered in
17 accordance with New Mexico law, unless the person is
18 compensated by a lender, a mortgage loan company or other
19 mortgage loan originator or by any agent of such lender,
20 mortgage loan company or other mortgage loan originator; and

21 (3) a person solely involved in extensions of
22 credit relating to timeshare plans, as that term is defined
23 in Section 101(53D) of Title 11 of the United States Code;

24 L. "nationwide mortgage licensing system and
25 registry" means a mortgage licensing system developed and

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1 maintained by the conference of state bank supervisors and
2 the American association of residential mortgage regulators
3 for the licensing and registration of licensed mortgage loan
4 originators;

5 M. "nontraditional mortgage product" means any
6 mortgage product other than a thirty-year fixed rate
7 mortgage;

8 N. "person" means [~~a natural person~~] an individual,
9 corporation, company, limited liability company, partnership
10 or association;

11 O. "real estate brokerage activity" means any
12 activity that involves offering or providing real estate
13 brokerage services to the public, including:

14 (1) acting as a real estate agent or real
15 estate broker for a buyer, seller, lessor or lessee of real
16 property;

17 (2) bringing together parties interested in
18 the sale, purchase, lease, rental or exchange of real
19 property;

20 (3) negotiating, on behalf of any party, any
21 portion of a contract relating to the sale, purchase, lease,
22 rental or exchange of real property, other than in connection
23 with providing financing with respect to any such
24 transaction;

25 (4) engaging in any activity for which a

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1 person engaged in the activity is required to be registered
2 or licensed as a real estate agent or real estate broker
3 pursuant to any applicable law; and

4 (5) offering to engage in any activity or to
5 act in any capacity described in Paragraphs (1) through (4)
6 of this subsection;

7 P. "registered mortgage loan originator" means any
8 individual who:

9 (1) meets the definition of mortgage loan
10 originator and is an employee of:

11 (a) a depository institution;

12 (b) a subsidiary that is: 1) owned and
13 controlled by a depository institution; and 2) regulated by a
14 federal banking agency; or

15 (c) an institution regulated by the farm
16 credit administration; and

17 (2) is registered with, and maintains a unique
18 identifier through, the nationwide mortgage licensing system
19 and registry;

20 Q. "residential mortgage loan" means any loan
21 primarily for personal, family or household use that is
22 secured by a mortgage, deed of trust or other equivalent
23 consensual security interest on a dwelling or on residential
24 real estate upon which is constructed or is intended to be
25 constructed a dwelling as so defined;

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1 R. "residential real estate" means any real
2 property located in New Mexico upon which is constructed or
3 intended to be constructed a dwelling;

4 S. "servicer" means a person that collects or
5 receives payments, including principal, interest and trust
6 items such as hazard insurance, property taxes and other
7 amounts due, on behalf of a note holder or investor in
8 accordance with the terms of a residential mortgage loan, and
9 includes working with a borrower on behalf of a note holder
10 or investor, when the borrower is in financial hardship or
11 default, to modify either temporarily or permanently the
12 terms of an existing residential mortgage loan; and

13 T. "unique identifier" means a number or other
14 identifier assigned by protocols established by the
15 nationwide mortgage licensing system and registry."

16 Section 85. Section 58-22-3 NMSA 1978 (being Laws 1983,
17 Chapter 135, Section 3) is amended to read:

18 "58-22-3. DEFINITIONS.--As used in the Escrow Company
19 Act:

20 A. "director" means the director of the division;

21 B. "division" means the financial institutions
22 division of the commerce and [~~industry~~] economic development
23 department;

24 C. "escrow" means any transaction in which one
25 person, for the purpose of effecting the sale, transfer,

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1 encumbrance or lease of real or personal property to another
2 person or for the purpose of making payments under any
3 encumbrance of [~~such~~] the property, delivers any written
4 instrument, money, evidence of title to real or personal
5 property or other thing of value to a third person to be held
6 by that third person until the happening of a specified event
7 or the performance of a prescribed condition, when the
8 instrument, money, evidence of title or thing of value is to
9 be delivered by the third person to a grantee, grantor,
10 promisee, promisor, obligee, obligor, bailee or bailor or to
11 any of [~~his~~] that person's agents or employees, pursuant to
12 the written escrow instructions;

13 D. "escrow company" means any person engaged in the
14 business of receiving escrows for deposit or delivery for
15 compensation who is required to be licensed under the Escrow
16 Company Act;

17 E. "licensee" means a person holding a valid
18 license as an escrow agent; and

19 F. "person" means an individual, cooperative,
20 association, company, firm, partnership, corporation or other
21 legal entity."

22 Section 86. Section 58-26-3 NMSA 1978 (being Laws 1988,
23 Chapter 5, Section 3) is amended to read:

24 "58-26-3. DEFINITIONS.--As used in the Interstate
25 Depository Institutions Act:

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1 A. "bank" means:
2 (1) an insured bank as defined in Section 3(h)
3 of the Federal Deposit Insurance Act; or

4 (2) any institution that is eligible to make
5 application to become an insured bank pursuant to Section 5
6 of the Federal Deposit Insurance Act, excepting and excluding
7 an institution created or incorporated under the federal Edge
8 Act (Federal Reserve Banks);

9 B. "control" means the power, directly or
10 indirectly, to either direct or exercise a controlling
11 influence over the management or policies of a depository
12 institution or a holding company, elect a majority of the
13 directors of a depository institution or a holding company or
14 vote twenty-five percent or more of any class of voting
15 securities of a depository institution or a holding company;

16 C. "depository institution" means any bank or
17 savings institution;

18 D. "director" means the director of the financial
19 institutions division of the [~~regulation and licensing~~]
20 commerce and economic development department;

21 E. "domestic depository institution" means a
22 depository institution whose home office is located in New
23 Mexico and whose operations are principally conducted in New
24 Mexico;

25 F. "domestic holding company" means a holding

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1 company whose subsidiary depository institutions' operations
2 are principally conducted in New Mexico;

3 G. "financial institution" means any depository
4 institution or credit union;

5 H. "holding company" means any person, other than
6 an individual, that has the power to control a depository
7 institution;

8 I. "interstate acquisition" means any transaction
9 pursuant to which an out-of-state depository institution or
10 an out-of-state holding company acquires control of, merges
11 with or acquires all or substantially all of the assets of a
12 domestic depository institution or domestic holding company;

13 J. "out-of-state depository institution" means any
14 depository institution whose home office is located in a
15 state other than New Mexico or whose operations are
16 principally conducted in a state other than New Mexico;

17 K. "out-of-state holding company" means a holding
18 company whose subsidiary depository institutions' operations
19 are principally conducted in a state other than New Mexico;

20 L. "operations are principally conducted" means the
21 state where the largest percentage of the aggregate deposits
22 of a depository institution or of all depository institution
23 subsidiaries of a holding company are held; and

24 M. "savings institution" means a state or federal
25 savings and loan association, state or federal savings bank,

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1 building and loan, savings and loan or homestead association
2 or cooperative bank, the accounts of which are insured by the
3 federal savings and loan insurance corporation."

4 Section 87. Section 58-27-4 NMSA 1978 (being Laws 1991,
5 Chapter 131, Section 4, as amended) is amended to read:

6 "58-27-4. BORDER AUTHORITY CREATED--MEMBERSHIP.--

7 A. The "border authority" is created. The
8 authority is a state agency and is administratively attached
9 to the commerce and economic development department.

10 B. The authority consists of seven voting members,
11 six of whom shall be appointed by the governor. No more than
12 three of those appointed shall belong to the same political
13 party. The seventh member shall be the secretary of commerce
14 and economic development or the secretary's designee. The
15 voting members appointed by the governor shall be confirmed
16 by the senate. The lieutenant governor shall serve as a
17 nonvoting ex-officio member. The chair may appoint a
18 nonvoting advisory committee to provide advice and
19 recommendations on authority matters.

20 C. The six voting members of the authority
21 appointed by the governor shall be citizens of the state and
22 shall serve for terms of four years except for the initial
23 appointees who shall be appointed so that the terms are
24 staggered after initial appointment. Initial appointees
25 shall serve terms as follows: two members for two years, two

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1 members for three years and two members for four years."

2 Section 88. Section 58-28-2 NMSA 1978 (being Laws 1997,
3 Chapter 118, Section 2) is amended to read:

4 "58-28-2. DEFINITIONS.--As used in the Land Title Trust
5 Fund Act:

6 A. "committee" means the land title trust fund
7 advisory committee;

8 B. "depository institution" means any bank, savings
9 and loan association or credit union authorized by federal or
10 state law to do business in New Mexico and insured by the
11 federal deposit insurance corporation or the national credit
12 union administration;

13 C. "division" means the financial institutions
14 division of the [~~regulation and licensing~~] commerce and
15 economic development department;

16 D. "eligible organization" means a nonprofit
17 corporation whose primary purpose is to provide affordable
18 housing and that is qualified for tax exemption under Section
19 501(c)(3) of the Internal Revenue Code of 1986, as amended; a
20 unit of state or local government dealing with housing; a
21 local or regional housing authority; or a tribal agency
22 dealing with housing;

23 E. "fund" means the land title trust fund;

24 F. "low-income persons" means a household
25 consisting of a single [~~individual~~] person, a family or

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1 unrelated [~~individuals~~] persons living together if the
2 household's total annual income does not exceed eighty
3 percent of the median income for the area, as determined by
4 the United States department of housing and urban
5 development, and as adjusted for family size or other income
6 ceiling determined for the area on the basis of that
7 department's findings that such variations are necessary
8 because of prevailing levels of construction costs or fair
9 market rents or unusually high or low family incomes;

10 G. "pooled interest-bearing transaction account"
11 means a trust or escrow account made available by a
12 depository institution in the form of a negotiable order of
13 withdrawal account, sweep account or other interest-bearing
14 account;

15 H. "title company" means a title insurer or title
16 insurance agent as defined in and regulated pursuant to the
17 New Mexico Title Insurance Law; and

18 I. "trustee" means the New Mexico mortgage finance
19 authority."

20 Section 89. Section 58-31-1 NMSA 1978 (being Laws 2005,
21 Chapter 128, Section 1) is amended to read:

22 "58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article
23 31 NMSA 1978 may be cited as the "Spaceport Development
24 Act"."

25 Section 90. Section 58-31-4 NMSA 1978 (being Laws 2005,
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1 Chapter 128, Section 4) is amended to read:

2 "58-31-4. SPACEPORT AUTHORITY CREATED--MEMBERSHIP.--

3 A. The "spaceport authority" is created. The
4 authority is a state agency and is administratively attached
5 to the commerce and economic development department.

6 B. The authority shall consist of seven voting and
7 two nonvoting members, six of whom shall be appointed by the
8 governor with the consent of the senate; provided that one of
9 the appointed members shall be a resident of Sierra county.
10 No more than three appointed members shall belong to the same
11 political party. The seventh member shall be the secretary
12 of commerce and economic development or the secretary's
13 designee. The lieutenant governor shall serve as a nonvoting
14 ex-officio member. [~~The executive director of the authority~~
15 ~~shall serve as a nonvoting member.~~] The chair may appoint a
16 nonvoting advisory committee to provide advice and
17 recommendations on authority matters.

18 C. The members appointed by the governor shall be
19 residents of the state and shall serve for terms of four
20 years, except for the initial appointees who shall be
21 appointed so that the terms are staggered after initial
22 appointment. Initial appointees shall serve terms as
23 follows: two members for two years, two members for three
24 years and two members for four years.

25 D. Appointed voting members of the authority

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1 ~~[shall]~~ are entitled to be reimbursed for per diem and
2 mileage in accordance with the provisions of the Per Diem and
3 Mileage Act that apply to nonsalaried public officers, unless
4 a different provision of that act applies to a specific
5 member, in which case that member shall be paid under the
6 applicable provision. Members and advisors shall receive no
7 other compensation, perquisite or allowance for serving as a
8 member of or advisor to the authority.

9 E. The secretary of commerce and economic
10 development or the secretary's designee shall serve as the
11 chair of the authority. Authority members shall elect any
12 other officers from the membership that the authority
13 determines appropriate.

14 F. The chair, four other authority voting members
15 appointed by the chair and the executive director of the
16 authority shall constitute the spaceport authority executive
17 committee. The committee shall have powers and duties as
18 delegated to it by the authority.

19 G. If a vacancy occurs among the appointed voting
20 members of the authority, the governor shall appoint a
21 replacement to serve out the term of the former member. If
22 an appointed member's term expires, the member shall continue
23 to serve until the member is reappointed or another person is
24 appointed and ~~[confirmed by the senate to replace the member]~~
25 qualified.

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1 H. The authority shall meet at the call of the
2 chair and shall meet in regular session at least once every
3 three months.

4 I. The authority shall maintain written minutes of
5 all meetings of the authority and maintain other appropriate
6 records, including financial transaction records in
7 compliance with law and adequate to provide an accurate
8 record for audit purposes pursuant to the Audit Act."

9 Section 91. Section 60-1A-3 NMSA 1978 (being Laws 2007,
10 Chapter 39, Section 3) is amended to read:

11 "60-1A-3. COMMISSION CREATED--APPOINTMENT OF MEMBERS--
12 TERMS OF OFFICE.--

13 A. The "state racing commission" is created and is
14 administratively attached to the [~~tourism~~] commerce and
15 economic development department.

16 B. The commission shall consist of five members, no
17 more than three of whom shall be members of the same
18 political party. The commission members shall be appointed
19 by the governor and be confirmed by the senate. All members
20 of the commission shall hold at-large positions on the
21 commission.

22 C. At least three of the members of the commission
23 shall be practical breeders of racehorses within New Mexico.

24 D. A commission member shall have primary residence
25 in New Mexico and shall be of high character and reputation

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1 so that public confidence in the administration of horse
2 racing is maintained.

3 E. The term of each member of the commission shall
4 be six years from the date of the member's appointment. The
5 member shall serve until a successor is appointed and
6 qualified. In the case of a vacancy in the membership of the
7 commission, the governor shall fill the vacancy by
8 appointment for the unexpired term.

9 F. A person shall not be eligible for appointment
10 as a member of the commission who is an officer, official or
11 director in a corporation conducting horse racing within the
12 state.

13 G. Members of the commission shall receive no
14 salary, compensation or perquisites, but each member of the
15 commission [~~shall~~] is entitled to receive per diem and
16 mileage pursuant to the Per Diem and Mileage Act.

17 H. The commission may appoint an executive director
18 and establish the executive director's duties and
19 compensation."

20 Section 92. Section 60-2A-2 NMSA 1978 (being Laws 1980,
21 Chapter 90, Section 2, as amended) is amended to read:

22 "60-2A-2. DEFINITIONS.--As used in the Professional
23 Athletic Competition Act:

24 A. "board" means the medical advisory board;

25 B. "commission" means the New Mexico athletic

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1 commission;

2 C. "contestant" means a person who engages in
3 unarmed combat for remuneration;

4 D. "department" means the [~~regulation and~~
5 ~~licensing~~] commerce and economic development department;

6 E. "foreign co-promoter" means a promoter who has
7 no place of business in this state;

8 F. "manager":

9 (1) means a person who:

10 (a) undertakes to represent the interests
11 of another person by contract, agreement or other arrangement
12 in procuring, arranging or conducting a professional contest
13 or exhibition in which the represented person will
14 participate as a contestant;

15 (b) directs or controls the activities of
16 an unarmed combatant relating to the participation of the
17 unarmed combatant in professional contests or exhibitions;

18 (c) receives or is entitled to receive at
19 least ten percent of the gross purse or gross income of any
20 professional unarmed combatant for services relating to the
21 participation of the unarmed combatant in a professional
22 contest or exhibition; or

23 (d) receives compensation for services as
24 an agent or representative of an unarmed combatant; and

25 (2) does not include an attorney who is

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1 licensed to practice law in this state if the attorney's
2 participation in any of the activities described in Paragraph
3 (1) of this subsection is limited solely to the legal
4 representation of a client who is an unarmed combatant;

5 G. "professional boxer" or "professional wrestler"
6 means ~~[an individual]~~ a person who competes for money, prizes
7 or purses or who teaches, pursues or assists in the practice
8 of boxing, wrestling or martial arts as a means of obtaining
9 a livelihood or pecuniary gain;

10 H. "professional contest" means any professional
11 boxing, wrestling or martial arts contest or exhibition,
12 whether or not an admission fee is charged for admission of
13 the public;

14 I. "promoter" means any person, and in the case of
15 a corporate promoter includes any officer, director or
16 stockholder of the corporation, who produces or stages any
17 professional boxing, wrestling or martial arts contest,
18 exhibition or closed circuit television show;

19 J. "purse" means the financial guarantee or any
20 other remuneration, or part thereof, for which professional
21 boxers or professional wrestlers are participating in a
22 contest or exhibition and includes the participant's share of
23 any payment received for radio broadcasting, television or
24 motion picture rights;

25 K. "ring official" means any person who performs an

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1 official function during the progress of a contest or
2 exhibition;

3 L. "unarmed combat" means boxing, wrestling,
4 martial arts or any form of competition in which a blow is
5 usually struck that may reasonably be expected to inflict
6 injury; and

7 M. "unarmed combatant" means:

8 (1) a person who engages in unarmed combat in
9 a contest or exhibition, whether or not the person receives
10 remuneration, including a wrestler, boxer, mixed martial
11 artist or other contestant; or

12 (2) an amateur boxer who is registered with
13 United States amateur boxing, incorporated, or any other
14 amateur organization recognized by the commission and
15 participates in an amateur boxing contest or exhibition in
16 the state that is registered and sanctioned by United States
17 amateur boxing, incorporated or golden gloves of America."

18 Section 93. Section 60-3A-3 NMSA 1978 (being Laws 1981,
19 Chapter 39, Section 3, as amended) is amended to read:

20 "60-3A-3. DEFINITIONS.--As used in the Liquor Control
21 Act:

22 A. "alcoholic beverages" means distilled or
23 rectified spirits, potable alcohol, brandy, whiskey, rum, gin
24 and aromatic bitters bearing the federal internal revenue
25 strip stamps or any similar alcoholic beverage, including

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1 blended or fermented beverages, dilutions or mixtures of one
2 or more of the foregoing containing more than one-half
3 percent alcohol, but excluding medicinal bitters;

4 B. "beer" means an alcoholic beverage obtained by
5 the fermentation of any infusion or decoction of barley, malt
6 and hops or other cereals in water, and includes porter,
7 beer, ale and stout;

8 C. "brewer" means a person who owns or operates a
9 business for the manufacture of beer;

10 D. "club" means:

11 (1) any nonprofit group, including an
12 auxiliary or subsidiary group, organized and operated under
13 the laws of this state, with a membership of not less than
14 fifty members who pay membership dues at the rate of not less
15 than five dollars (\$5.00) per year and who, under the
16 constitution and bylaws of the club, have all voting rights
17 and full membership privileges, and which group is the owner,
18 lessee or occupant of premises used exclusively for club
19 purposes and which group the director finds:

20 (a) is operated solely for recreation,
21 social, patriotic, political, benevolent or athletic
22 purposes; and

23 (b) has been granted an exemption by the
24 United States from the payment of the federal income tax as a
25 club under the provisions of Section 501(a) of the Internal

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1 Revenue Code of 1986, as amended, or, if the applicant has
2 not operated as a club for a sufficient time to be eligible
3 for the income tax exemption, it must execute and file with
4 the director a sworn letter of intent declaring that it will,
5 in good faith, apply for an income tax exemption as soon as
6 it is eligible; or

7 (2) an airline passenger membership club
8 operated by an air common carrier that maintains or operates
9 a clubroom at an international airport terminal. As used in
10 this paragraph, "air common carrier" means a person engaged
11 in regularly scheduled air transportation between fixed
12 termini under a certificate of public convenience and
13 necessity issued by the federal aviation administration;

14 E. "commission" means the secretary of public
15 safety when the term is used in reference to the enforcement
16 and investigatory provisions of the Liquor Control Act and
17 means the ~~[superintendent of regulation and licensing]~~
18 director of the alcohol and gaming division of the commerce
19 and economic development department when the term is used in
20 reference to the licensing provisions of the Liquor Control
21 Act;

22 F. "department" means the special investigations
23 division of the department of public safety when the term is
24 used in reference to the enforcement and investigatory
25 provisions of the Liquor Control Act and means the director

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1 of the alcohol and gaming division of the [~~regulation and~~
2 ~~licensing~~] commerce and economic development department when
3 the term is used in reference to the licensing provisions of
4 the Liquor Control Act;

5 G. "director" means the director of the special
6 investigations division of the department of public safety
7 when the term is used in reference to the enforcement and
8 investigatory provisions of the Liquor Control Act and means
9 the director of the alcohol and gaming division of the
10 [~~regulation and licensing~~] commerce and economic development
11 department when the term is used in reference to the
12 licensing provisions of the Liquor Control Act;

13 H. "dispenser" means a person licensed under the
14 provisions of the Liquor Control Act selling, offering for
15 sale or having in the person's possession with the intent to
16 sell alcoholic beverages both by the drink for consumption on
17 the licensed premises and in unbroken packages for
18 consumption and not for resale off the licensed premises;

19 I. "distiller" means a person engaged in
20 manufacturing spirituous liquors;

21 J. "golf course" means a tract of land and
22 facilities used for playing golf and other recreational
23 activities that includes tees, fairways, greens, hazards,
24 putting greens, driving ranges, recreational facilities,
25 patios, pro shops, cart paths and public and private roads

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1 that are located within the tract of land;

2 K. "governing body" means the board of county
3 commissioners of a county or the city council or city
4 commissioners of a municipality;

5 L. "hotel" means an establishment or complex having
6 a resident of New Mexico as a proprietor or manager and
7 where, in consideration of payment, meals and lodging are
8 regularly furnished to the general public. The establishment
9 or complex must maintain for the use of its guests a minimum
10 of twenty-five sleeping rooms;

11 M. "licensed premises" means the contiguous areas
12 or areas connected by indoor passageways of a structure and
13 the outside dining, recreation and lounge areas of the
14 structure and the grounds and vineyards of a structure that
15 is a winery that are under the direct control of the licensee
16 and from which the licensee is authorized to sell, serve or
17 allow the consumption of alcoholic beverages under the
18 provisions of its license; provided that in the case of a
19 restaurant, including a restaurant that has operated
20 continuously in two separate structures since July 1, 1987
21 and that is located in a local option district that has voted
22 to disapprove the transfer of liquor licenses into that local
23 option district, hotel, golf course or racetrack, "licensed
24 premises" includes all public and private rooms, facilities
25 and areas in which alcoholic beverages are sold or served in

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1 the customary operating procedures of the restaurant, hotel,
2 golf course or racetrack;

3 N. "local option district" means a county that has
4 voted to approve the sale, serving or public consumption of
5 alcoholic beverages, or an incorporated municipality that
6 falls within a county that has voted to approve the sale,
7 serving or public consumption of alcoholic beverages, or an
8 incorporated municipality of over five thousand population
9 that has independently voted to approve the sale, serving or
10 public consumption of alcoholic beverages under the terms of
11 the Liquor Control Act or any former act;

12 O. "manufacturer" means a distiller, rectifier,
13 brewer or winer;

14 P. "minor" means a person under twenty-one years of
15 age;

16 Q. "package" means an immediate container of
17 alcoholic beverages that is filled or packed by a
18 manufacturer or wine bottler for sale by the manufacturer or
19 wine bottler to wholesalers;

20 R. "person" means an individual, corporation, firm,
21 partnership, copartnership, association or other legal
22 entity;

23 S. "rectifier" means a person who blends, mixes or
24 distills alcohol with other liquids or substances for the
25 purpose of making an alcoholic beverage for the purpose of

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1 sale other than to the consumer by the drink, and includes
2 all bottlers of spirituous liquors;

3 T. "restaurant" means an establishment having a New
4 Mexico resident as a proprietor or manager that is held out
5 to the public as a place where meals are prepared and served
6 primarily for on-premises consumption to the general public
7 in consideration of payment and that has a dining room, a
8 kitchen and the employees necessary for preparing, cooking
9 and serving meals; provided that "restaurant" does not
10 include establishments as defined in rules promulgated by the
11 director serving only hamburgers, sandwiches, salads and
12 other fast foods;

13 U. "retailer" means a person licensed under the
14 provisions of the Liquor Control Act selling, offering for
15 sale or having in the person's possession with the intent to
16 sell alcoholic beverages in unbroken packages for consumption
17 and not for resale off the licensed premises;

18 V. "spirituous liquors" means alcoholic beverages
19 as defined in Subsection A of this section except fermented
20 beverages such as wine, beer and ale;

21 W. "wholesaler" means a person whose place of
22 business is located in New Mexico and who sells, offers for
23 sale or possesses for the purpose of sale any alcoholic
24 beverages for resale by the purchaser;

25 X. "wine" includes the words "fruit juices" and

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1 means alcoholic beverages obtained by the fermentation of the
2 natural sugar contained in fruit or other agricultural
3 products, with or without the addition of sugar or other
4 products, that do not contain less than one-half percent nor
5 more than twenty-one percent alcohol by volume;

6 Y. "wine bottler" means a New Mexico wholesaler who
7 is licensed to sell wine at wholesale for resale only and who
8 buys wine in bulk and bottles it for wholesale resale;

9 Z. "winegrower" means a person who owns or operates
10 a business for the manufacture of wine;

11 AA. "winer" means a winegrower; and

12 BB. "winery" means a facility in which a winegrower
13 manufactures and stores wine."

14 Section 94. Section 60-3A-6 NMSA 1978 (being Laws 1987,
15 Chapter 254, Section 24, as amended) is amended to read:

16 "60-3A-6. AUTHORITY OF DEPARTMENT OF PUBLIC SAFETY.--
17 The department of public safety has authority over all
18 investigations and enforcement activities required under the
19 Liquor Control Act except for those provisions relating to
20 the issuance, denial, suspension or revocation of licenses,
21 unless its assistance is requested by the director of the
22 alcohol and gaming division of the [~~regulation and licensing~~]
23 commerce and economic development department."

24 Section 95. Section 60-3A-7 NMSA 1978 (being Laws 1987,
25 Chapter 254, Section 25, as amended) is amended to read:

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1 "60-3A-7. AUTHORITY OF THE ALCOHOL AND GAMING
2 DIVISION.--The alcohol and gaming division of the [~~regulation~~
3 ~~and licensing~~] commerce and economic development department
4 has the authority over all matters relating to the issuance,
5 denial, suspension or revocation of licenses under the Liquor
6 Control Act. The director of the alcohol and gaming division
7 [~~of the regulation and licensing department~~] may request the
8 department of public safety to provide investigatory and
9 enforcement support as deemed necessary."

10 Section 96. Section 60-6E-3 NMSA 1978 (being Laws 1999,
11 Chapter 277, Section 4) is amended to read:

12 "60-6E-3. DEFINITIONS.--As used in Chapter 60, Article
13 [~~6D~~] 6E NMSA 1978:

14 A. "director" means the director of the division;

15 B. "division" means the alcohol and gaming division
16 of the [~~regulation and licensing~~] commerce and economic
17 development department;

18 C. "licensee" means a person issued a license
19 pursuant to the provisions of the Liquor Control Act to sell,
20 serve or dispense alcoholic beverages for consumption and not
21 for resale;

22 D. "program" means an alcohol server education
23 course and examination approved by the director to be
24 administered by providers;

25 E. "provider" means [~~an individual, partnership,~~

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1 ~~corporation, public or private school or any other legal~~
2 ~~entity]~~ a person certified by the director to provide a
3 program;

4 F. "server" means [~~an individual~~] a person who
5 sells, serves or dispenses alcoholic beverages for
6 consumption on or off licensed premises, including persons
7 who manage, direct or control the sale or service of alcohol.
8 "Server" does not include officers of a corporate licensee or
9 lessee who do not manage, direct or control the sale or
10 service of alcohol; and

11 G. "server permit" means an authorization issued by
12 the director for a person to be employed or engaged to sell,
13 serve or dispense alcoholic beverages."

14 Section 97. Section 60-13-2 NMSA 1978 (being Laws 1967,
15 Chapter 199, Section 2, as amended) is amended to read:

16 "60-13-2. GENERAL DEFINITIONS.--As used in the
17 Construction Industries Licensing Act:

18 A. "division" means the construction industries
19 division of the [~~regulation and licensing~~] commerce and
20 economic development department;

21 B. "trade bureau" means the electrical bureau, the
22 mechanical bureau, the general construction bureau or the
23 liquefied petroleum gas bureau of the division;

24 C. "jurisdictional conflict" means [~~any~~] a conflict
25 between or among trade bureaus as to the exercise of

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1 jurisdiction over an occupation or trade for which a license
2 is required under the provisions of the Construction
3 Industries Licensing Act;

4 D. "person" includes an individual, firm,
5 partnership, corporation, association or other organization,
6 or any combination thereof;

7 E. "qualifying party" means [~~any~~] an individual who
8 submits to the examination for a license to be issued under
9 the Construction Industries Licensing Act and who is
10 responsible for the licensee's compliance with the
11 requirements of that act and with the rules, regulations,
12 codes and standards adopted and promulgated in accordance
13 with that act;

14 F. "certificate of qualification" means a
15 certificate issued by the division to a qualifying party;

16 G. "journeyman" means [~~any individual~~] a person who
17 is properly certified by the electrical bureau or the
18 mechanical bureau, as required by law, to engage in or work
19 at [~~his~~] the certified trade;

20 H. "apprentice" means [~~an individual~~] a person who
21 is engaged, as [~~his~~] the person's principal occupation, in
22 learning and assisting in a trade;

23 I. "wages" means compensation paid to [~~an~~
24 ~~individual~~] a person by an employer from which taxes are
25 required to be withheld by federal and state law;

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1 J. "public use" means the use or occupancy of [~~any~~]
2 a structure, facility or manufactured commercial unit to
3 which the general public, as distinguished from residents or
4 employees, has access;

5 K. "bid" means a written or oral offer to contract;

6 L. "building" means [~~any~~] a structure built for use
7 or occupancy by persons or property, including manufactured
8 commercial units and modular homes or premanufactured homes
9 designed to be placed on permanent foundations whether
10 mounted on skids or permanent foundations or whether
11 constructed on or off the site of location;

12 M. "inspection agency" means a firm, partnership,
13 corporation, association or any combination thereof approved
14 in accordance with regulations as having the personnel and
15 equipment available to adequately inspect for the proper
16 construction of manufactured commercial units, modular homes
17 or premanufactured homes;

18 N. "director" means the administrative head of the
19 division;

20 O. "chief" means the administrative head of a trade
21 bureau;

22 P. "commission" means the construction industries
23 commission;

24 Q. "manufactured commercial unit" means a movable
25 or portable housing structure over thirty-two feet in length

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1 or over eight feet in width that is constructed to be towed
2 on its own chassis and designed so as to be installed without
3 a permanent foundation for use as an office or other
4 commercial purpose and that may include one or more
5 components that can be retracted for towing purposes and
6 subsequently expanded for additional capacity, or two or more
7 units separately towable but designed to be joined into one
8 integral unit, as well as a single unit, but that does not
9 include any movable or portable housing structure over twelve
10 feet in width and forty feet in length that is used for
11 nonresidential purposes. "Manufactured commercial unit" does
12 not include modular or premanufactured homes, built to a
13 nationally recognized standard adopted by the commission and
14 designed to be permanently affixed to real property; ~~and~~

15 R. "code" means a body or compilation of provisions
16 or standards adopted by the commission that govern
17 contracting or some aspect of contracting; that provide for
18 safety and protection of life and health; and that are
19 published by a nationally recognized standards association;

20 S. "secretary" or "superintendent" means the
21 secretary of commerce and economic development; and

22 T. "department" means the commerce and economic
23 development department."

24 Section 98. Section 60-13-9 NMSA 1978 (being Laws 1978,
25 Chapter 73, Section 1, as amended) is amended to read:

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1 "60-13-9. DIVISION--DUTIES.--The division shall:

2 A. approve and adopt examinations on codes and
3 standards, business knowledge and division rules [~~and~~
4 ~~regulations~~] and on the Construction Industries Licensing Act
5 recommended by the commission for all classifications of
6 contractor's licenses;

7 B. issue, under the director's signature,
8 contractor's licenses and certificates of qualification in
9 accordance with the provisions of the Construction Industries
10 Licensing Act;

11 C. submit a list of all contractor's licenses and
12 certificates of qualification issued by the division to the
13 commission for review and approval;

14 D. resolve jurisdictional conflicts by assigning
15 specific responsibility to the appropriate bureau for
16 preparing examinations and for certifying and inspecting each
17 occupation, trade or activity covered by the Construction
18 Industries Licensing Act;

19 E. establish and collect fees authorized to be
20 collected by the division pursuant to the Construction
21 Industries Licensing Act;

22 F. adopt all building codes and minimum standards
23 as recommended by the trade bureaus and approved by the
24 commission so that the public welfare is protected,
25 uniformity is promoted and conflicting provisions are

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1 avoided;

2 G. with approval of the [~~superintendent of~~
3 ~~regulation and licensing~~] secretary, employ such personnel as
4 the division deems necessary for the exclusive purpose of
5 investigating violations of the Construction Industries
6 Licensing Act, enforcing Sections 60-13-12 and 60-13-38 NMSA
7 1978 and instituting legal action in the name of the division
8 to accomplish the provisions of Section 60-13-52 NMSA 1978;

9 H. approve, disapprove or revise the recommended
10 budget of each trade bureau and submit the budgets of those
11 bureaus, along with its own budget, to the [~~regulation and~~
12 ~~licensing~~] department;

13 I. approve, disapprove or revise and submit to the
14 [~~regulation and licensing~~] department all requests of the
15 trade bureaus for emergency budget transfers;

16 J. make an annual report to the [~~superintendent of~~
17 ~~regulation and licensing~~] secretary and develop a policy
18 manual concerning the operations of the division and the
19 trade bureaus. The report shall also contain the division's
20 recommendations for legislation it deems necessary to improve
21 the licensing and technical practices of the construction and
22 LP gas industries and to protect persons, property and
23 agencies of the state and its political subdivisions;

24 K. adopt, subject to commission approval, rules
25 [~~and regulations~~] necessary to carry out the provisions of

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1 the Construction Industries Licensing Act and the LPG and CNG
2 Act;

3 L. maintain a complete record of all applications;
4 all licenses issued, renewed, canceled, revoked and
5 suspended; and all fines and penalties imposed by the
6 division or commission and may make that information
7 available to certified code jurisdictions;

8 M. furnish, upon payment of a reasonable fee
9 established by the division, a certified copy of any license
10 issued or of the record of the official revocation or
11 suspension thereof. Such certified copy shall be prima facie
12 evidence of the facts stated therein; and

13 N. publish a list of contractors, with their
14 addresses and classifications, licensed by the division. The
15 list shall be furnished without charge to such public
16 officials, public bodies or public works and building
17 departments as the division deems advisable. The list shall
18 be published annually, and supplements shall be provided as
19 the division deems necessary. Copies of the list and
20 supplements shall be furnished to any person upon request and
21 payment of a reasonable fee established by the division."

22 Section 99. Section 60-13A-2 NMSA 1978 (being Laws
23 1993, Chapter 162, Section 2, as amended) is amended to read:

24 "60-13A-2. DEFINITIONS.--As used in the Employee
25 Leasing Act:

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1 A. "applicant" means a person applying for
2 registration as an employee leasing contractor;

3 B. "client" means a person who obtains workers
4 through an employee leasing arrangement;

5 C. "department" means the [~~regulation and~~
6 ~~licensing~~] commerce and economic development department;

7 D. "employee leasing arrangement" means any
8 arrangement in which a client contracts with an employee
9 leasing contractor for the contractor to provide leased
10 workers to the client; provided, "employee leasing
11 arrangements" does not include temporary workers;

12 E. "employee leasing contractor" means any person
13 who provides leased workers to a client in New Mexico through
14 an employee leasing arrangement;

15 F. "leased worker" means a worker provided to a
16 client through an employee leasing arrangement; provided that
17 if a worker works and should be classified in any
18 construction class or in any oil and gas well service or
19 drilling class pursuant to provisions of or [~~regulations~~]
20 rules adopted under the New Mexico Insurance Code, the worker
21 shall be presumed to be a leased worker and the employee
22 leasing contractor that provides the worker shall comply with
23 the provisions of the Employee Leasing Act;

24 G. "person" means an individual or any other legal
25 entity;

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underscoring material = new
[bracketed material] = delete

1 H. "temporary services employer" means an employing
2 unit that contracts with clients or customers to provide
3 workers to perform services for the client or customer and
4 performs all of the following functions:

5 (1) negotiates with clients or customers for
6 such matters as time, place, type of work, working
7 conditions, quality and price of the services;

8 (2) determines assignments of workers, even
9 though workers retain the right to refuse specific
10 assignments;

11 (3) retains the authority to reassign or
12 refuse to reassign a worker to other clients or customers
13 when a worker is determined unacceptable by a specific client
14 or customer;

15 (4) assigns the worker to perform services for
16 a client or customer;

17 (5) sets the rate of pay for the worker,
18 whether or not through negotiation; and

19 (6) pays the worker directly; and

20 I. "temporary worker" means a worker employed or
21 provided by a temporary services employer to support or
22 supplement another's work force in special work situations,
23 such as employee absences, temporary skill shortages,
24 temporary provision of specialized professional skills,
25 seasonal workloads and special temporary assignments,

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1 including the production of motion pictures, television
2 programs and other commercial media projects; provided that
3 if a worker who is employed or provided by a temporary
4 services employer works and should be classified in any
5 construction class or in any oil and gas well service or
6 drilling class pursuant to provisions of or [~~regulations~~]
7 rules adopted under the New Mexico Insurance Code, the worker
8 shall be presumed to be a temporary worker and the temporary
9 services employer that provides the worker shall comply with
10 the provisions of the Employee Leasing Act."

11 Section 100. Section 60-14-2 NMSA 1978 (being Laws
12 1978, Chapter 79, Section 1, as amended) is amended to read:

13 "60-14-2. DEFINITIONS.--As used in the Manufactured
14 Housing Act:

15 A. "broker" means [~~any~~] a person who, for a fee,
16 commission or valuable consideration, lists, sells, offers
17 for sale, exchanges, offers to exchange, rents or leases or
18 offers to rent or lease preowned manufactured homes for
19 another person or who negotiates, offers to negotiate,
20 locates or brings together a buyer and a seller or offers to
21 locate or bring together a buyer and a seller in conjunction
22 with the sale, exchange, rental or lease of a preowned
23 manufactured home. A broker may or may not be an agent of
24 any party involved in the transaction. [~~No~~] A person shall
25 not be considered a broker unless engaged in brokerage

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1 activities related to the sale, exchange or lease-purchase of
2 two or more preowned manufactured homes to consumers in any
3 consecutive twelve-month period;

4 B. "certificate of qualification" means a
5 certificate issued by the division to a qualifying party;

6 C. "committee" means the manufactured housing
7 committee;

8 D. "consumer" means [~~any~~] a person who seeks or
9 acquires by purchase, exchange or lease-purchase a
10 manufactured home;

11 E. "dealer" means [~~any~~] a person engaged in the
12 business of buying for resale, selling or exchanging
13 manufactured homes or offering manufactured homes for sale,
14 exchange or lease-purchase to consumers. [~~No~~] A person shall
15 not be considered a dealer unless engaged in the sale,
16 exchange or lease-purchase of two or more manufactured homes
17 to consumers in any consecutive twelve-month period. A
18 dealer may also engage in any brokerage activities included
19 under the definition of broker in this section; provided that
20 "dealer" [~~shall~~] does not include:

21 (1) receivers, trustees, administrators,
22 executors, guardians or other persons appointed by or acting
23 under judgment, decree or order of any court;

24 (2) public officers while performing their
25 duties as such officers; and

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1 (3) finance companies, banks and other lending
2 institutions covering sales of repossessed manufactured
3 houses;

4 F. "department" means the commerce and economic
5 development department;

6 [~~F.~~] G. "director" means the director of the
7 manufactured housing division;

8 [~~G.~~] H. "division" means the manufactured housing
9 division of the [~~regulation and licensing~~] department;

10 [~~H.~~] I. "inspection agency" means any firm,
11 partnership, corporation, association or any combination
12 thereof approved in accordance with [~~regulations~~] rules
13 adopted by the division as having the personnel and equipment
14 available to adequately inspect for the proper construction
15 of manufactured homes or house trailers not used exclusively
16 for recreational purposes;

17 [~~I.~~] J. "inspector" means a person appointed by the
18 division as being qualified to adequately inspect the
19 construction, electrical installations and mechanical
20 installations of manufactured homes and their repair and
21 modification, as well as the installation, tie-downs,
22 blocking, skirting and water, gas and sewer connections of
23 any manufactured homes in New Mexico;

24 [~~J.~~] K. "installer" means [~~any~~] a person who
25 installs manufactured homes for remuneration;

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1 ~~[K.]~~ L. "installation" ~~[means]~~ includes but is not
2 limited to preparation by an installer of a manufactured home
3 site, construction of tie-down facilities and connection to
4 on-site utility terminals;

5 ~~[L.]~~ M. "manufacturer" means ~~[any]~~ a resident or
6 nonresident person who manufactures or assembles manufactured
7 homes or any component of manufactured homes;

8 ~~[M.]~~ N. "manufactured home" means a movable or
9 portable housing structure over thirty-two feet in length or
10 over eight feet in width constructed to be towed on its own
11 chassis and designed to be installed with or without a
12 permanent foundation for human occupancy as a residence and
13 ~~[which]~~ that may include one or more components that can be
14 retracted for towing purposes and subsequently expanded for
15 additional capacity or may be two or more units separately
16 towable but designed to be joined into one integral unit, as
17 well as a single unit. "Manufactured home" does not include
18 recreational vehicles or modular or premanufactured homes,
19 built to Uniform Building Code standards, designed to be
20 permanently affixed to real property. "Manufactured home"
21 includes any movable or portable housing structure over
22 twelve feet in width and forty feet in length ~~[which]~~ that is
23 used for nonresidential purposes;

24 ~~[N.]~~ O. "permit" means a certificate issued by the
25 division to the dealer or installer of a manufactured home

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1 indicating that the manufactured home meets the minimum
2 requirements for occupancy provided for by codes or
3 [~~regulations~~] rules of the division;

4 [Ø-] P. "person" includes an individual, firm,
5 partnership, corporation, association or other legal entity
6 or any combination thereof;

7 [P-] Q. "qualifying party" means [~~any individual~~] a
8 person who submits to the examination for a license, other
9 than a broker's or salesperson's license, to be issued under
10 the Manufactured Housing Act to a licensee, other than an
11 individual, and who after passing such an examination is
12 responsible for the licensee's compliance with the
13 requirements of that act and with the rules, [~~regulations~~]
14 codes and standards adopted and promulgated in accordance
15 with the provisions of the Manufactured Housing Act;

16 [Ø-] R. "repairman" means any person who, for
17 remuneration or consideration, modifies, alters or repairs
18 the structural, mechanical or electrical systems of a
19 manufactured home; [~~and~~

20 R-] S. "salesperson" means any person who for any
21 form of compensation sells or lease-purchases or offers to
22 sell or lease-purchase manufactured homes to consumers as an
23 employee or agent of a dealer; and

24 T. "secretary" means the secretary of commerce and
25 economic development."

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1 Section 101. Section 60-14-4 NMSA 1978 (being Laws
2 1978, Chapter 80, Section 1, as amended) is amended to read:

3 "60-14-4. POWERS AND DUTIES OF DIVISION.--The division
4 shall:

5 A. prepare, administer and grade examinations for
6 licensure under the classification sought by each applicant;

7 B. issue licenses and certificates of qualification
8 in accordance with the provisions of the Manufactured Housing
9 Act;

10 C. establish and collect fees authorized to be
11 collected by the division pursuant to the Manufactured
12 Housing Act;

13 D. subject to the approval of the committee, adopt
14 rules [~~and regulations~~] relating to the construction, repair,
15 modification, installation, tie-down, hookup and sale of all
16 manufactured homes, which [~~regulations~~] rules shall be
17 uniform throughout the state and shall be enforced by
18 inspectors for the division to [~~insure~~] ensure minimum
19 standards of safety within the state and any of its political
20 subdivisions. Ordinances of any political subdivision of New
21 Mexico relating to gas, including natural gas, liquefied
22 petroleum gas or synthetic natural gas; electricity; sanitary
23 plumbing; and installation or sale of manufactured homes
24 shall not be inconsistent with any rules, [~~regulations~~] codes
25 or standards adopted by the division pursuant to the

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1 Manufactured Housing Act;

2 E. adopt a budget and submit it to the [~~regulation~~
3 ~~and licensing~~] department for approval;

4 F. make an annual report to the [~~superintendent of~~
5 ~~regulation and licensing~~] secretary concerning the operations
6 of the division. The report shall contain the division's
7 recommendations for legislation that it deems necessary to
8 improve the licensing and the ethical and technical practices
9 of the manufactured housing industry and to protect the
10 public welfare;

11 G. subject to the approval of the committee, adopt
12 such rules, [~~regulations~~] codes and standards as are
13 necessary to carry out the provisions of the Manufactured
14 Housing Act;

15 H. prepare a uniform manufacturer's warranty and
16 require its adoption as a condition of licensure by all
17 manufacturers of manufactured homes doing business in New
18 Mexico;

19 I. subject to the approval of the committee, adopt
20 by [~~regulation~~] rule the mobile home construction and safety
21 standards contained in the National Mobile Home Construction
22 and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as
23 amended;

24 J. subject to the approval of the committee, adopt
25 by [~~regulation~~] rule the mobile home procedural and

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1 enforcement regulations, 24 C.F.R. 3282, as amended,
2 promulgated by the department of housing and urban
3 development pursuant to the National Mobile Home Construction
4 and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq., as
5 amended;

6 K. issue permits and provide for a single
7 inspection of every installation in New Mexico, regardless of
8 the location;

9 L. subject to the approval of the committee, adopt
10 [~~regulation~~] rules prescribing standards for the installation
11 or use of electrical wiring; the installation of all
12 fixtures, plumbing, consumer's gas pipe, including natural
13 gas, liquefied petroleum gas and synthetic natural gas,
14 appliances and materials installed in the course of
15 mechanical installation; and the construction, alteration,
16 installation and repair of all manufactured homes intended
17 for use in flood or mudslide areas designated pursuant to
18 Section 3-18-7 NMSA 1978. The [~~regulations~~] rules shall give
19 due regard to standards prescribed by the federal insurance
20 administration pursuant to regulation 1910, Subsection 7(d),
21 79 Stat. 670, Section 1361, 82 Stat. 587 and 82 Stat. 5757,
22 all as amended, and shall give due regard to physical,
23 climatic and other conditions peculiar to New Mexico;

24 M. conduct "inspector schools" so that each
25 inspector under the division's jurisdiction is capable of

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1 giving a complete one-time inspection for the sufficiency of
2 unit installation, construction and mechanical and electrical
3 systems;

4 N. enter into cooperative agreements with federal
5 agencies relating to manufactured housing and accept and use
6 federal grants, matching funds or other financial assistance
7 to further the purposes of the Manufactured Housing Act. The
8 division may enter into agreements with municipalities and
9 counties to provide for the inspection of manufactured homes
10 by employees of municipalities and counties, to be performed
11 under the supervision and control of the division. The
12 division may allow all or a portion of the inspection fee
13 collected by a local public body to be retained by the local
14 public body. The portion of the fee retained shall be
15 determined by the division and shall be related to the
16 completeness of the inspection performed;

17 O. administer oaths through any member of the
18 division, the director or a hearing officer;

19 P. subject to the approval of the committee, adopt
20 rules [~~and regulations~~] for the conducting of hearings and
21 the presentation of views, consistent with the regulations
22 promulgated by the department of housing and urban
23 development, 24 C.F.R. 3282.151 through 3282.156, as amended;

24 Q. subject to the approval of the committee, adopt
25 by [~~regulation~~] rule a requirement that dealers, repairmen

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[bracketed material] = delete

1 and installers provide to consumers warranties on their
2 product and work and prescribe by [~~regulation~~] rule minimum
3 requirements of such warranties;

4 R. coordinate with and qualify inspectors for any
5 multiple inspection program provided by the construction
6 industries division of the [~~regulation and licensing~~]
7 department for inspection of manufactured homes;

8 S. subject to the approval of the committee, adopt
9 [~~regulations~~] rules, codes and standards for manufactured
10 homes used for nonresidential purposes; provided such
11 manufactured homes being used for nonresidential purposes on
12 May 18, 1988 shall not be required to meet Uniform Building
13 Code standards, except as to requirements for access to the
14 handicapped, but manufactured homes being used for
15 nonresidential purposes after May 18, 1988 shall be required
16 to meet Uniform Building Code standards. None of the
17 provisions contained in this subsection shall apply to
18 retailers licensed by the motor vehicle division of the
19 taxation and revenue department; and

20 T. with the approval of the [~~superintendent of~~
21 ~~regulation and licensing~~] secretary, employ such personnel as
22 the director deems necessary for the exclusive purposes of
23 investigating violations of the Manufactured Housing Act,
24 enforcing Section 60-14-17 NMSA 1978 and instituting legal
25 action in the name of the division to enforce the provisions

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1 of Section 60-14-19 NMSA 1978."

2 Section 102. Section 60-15-3 NMSA 1978 (being Laws
3 1993, Chapter 183, Section 3, as amended) is amended to read:

4 "60-15-3. DEFINITIONS.--As used in the Hoisting
5 Operators Safety Act:

6 A. "class I hoisting operator" means [~~any~~] a person
7 who is authorized to operate a conventional crane, tower
8 crane or hydraulic crane of any size or weight;

9 B. "class II hoisting operator" means [~~any~~] a
10 person who is authorized to operate:

11 (1) a hydraulic crane of up to one hundred
12 tons lifting capacity with a maximum boom length of one
13 hundred fifty feet, regardless of mounting or means of
14 mobility; and

15 (2) any other type or size of crane or
16 hoisting equipment under the direct supervision of a class I
17 hoisting operator;

18 C. "class III hoisting operator" means [~~any~~] a
19 person who is authorized to work as an apprentice, trainee or
20 crane oiler or driver under the direct supervision of a class
21 I or class II hoisting operator;

22 D. "council" means the hoisting operators licensure
23 examining council;

24 E. "crane" means a tower crane used in
25 construction, demolition or excavation work; a hydraulic

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1 crane; a power-operated derrick; or a mobile, carrier-
2 mounted, track or crawler type power-operated hoisting
3 machine that utilizes a power-operated boom capable of
4 lateral movement by the rotation of the machine on the
5 carrier. "Crane" does not include a crane, except as
6 provided in Subsection M of this section;

7 F. "department" means the [~~regulation and~~
8 ~~licensing~~] commerce and economic development department;

9 G. "endorsement" means the authorization stamped on
10 a class I hoisting operator's license indicating
11 authorization to operate a conventional crane, a tower crane
12 or a hydraulic crane of any size or weight;

13 H. "hoisting equipment" means, except as provided
14 in Subsection M of this section:

15 (1) a tower crane;

16 (2) a hydraulic crane with over two tons
17 lifting capacity;

18 (3) a derrick crane; or

19 (4) a mobile cable crane;

20 I. "licensee" means [~~any~~] a person licensed under
21 the Hoisting Operators Safety Act;

22 J. "person" means an individual, firm, partnership,
23 corporation, association or other organization or any
24 combination thereof;

25 K. "seat time" means the actual hands-on operation

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[bracketed material] = delete

1 of a crane by a class II hoisting operator while under the
2 direct supervision of a licensed class I hoisting operator or
3 by a class III hoisting operator while under the direct
4 supervision of a licensed class I or II hoisting operator;

5 L. "superintendent or "secretary" means the
6 [~~superintendent of the regulation and licensing department~~]
7 secretary of commerce and economic development; and

8 M. "crane" or "hoisting equipment" does not include
9 any crane or hoisting equipment used in construction,
10 demolition or excavation associated with:

11 (1) natural gas gather lines;

12 (2) interstate transmission facilities and
13 interstate natural gas facilities subject to the federal
14 Natural Gas Pipeline Safety Act of 1968 and its amendments;

15 (3) interstate pipeline facilities and carbon
16 dioxide pipeline facilities subject to the federal Hazardous
17 Liquid Pipeline Safety Act of 1979;

18 (4) gas and oil pipeline facilities subject to
19 the Pipeline Safety Act;

20 (5) mining, milling or smelting operations
21 subject to mine safety and health administration regulations
22 or occupational safety and health administration regulations;

23 (6) prefabricated control rooms of natural
24 gas, oil or carbon dioxide pipeline transmission facilities;

25 (7) oil and gas exploration, production or

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1 drilling;

2 (8) rural electric cooperative and electric,
3 gas and water utility operations;

4 (9) commercial sign operations;

5 (10) the construction or operation of
6 railroads; or

7 (11) the installation and maintenance of
8 telephone or television cable."

9 Section 103. Section 61-1-2 NMSA 1978 (being Laws 1957,
10 Chapter 247, Section 2, as amended) is amended to read:

11 "61-1-2. DEFINITIONS.--As used in the Uniform Licensing
12 Act:

13 A. "board" means:

14 (1) the construction industries commission,
15 the construction industries division and the electrical
16 bureau, mechanical bureau and general construction bureau of
17 the construction industries division of the [~~regulation and~~
18 ~~licensing~~] department;

19 (2) the manufactured housing committee and
20 manufactured housing division of the [~~regulation and~~
21 ~~licensing~~] department;

22 (3) a board, commission or agency that
23 administers a profession or occupation licensed pursuant to
24 Chapter 61 NMSA 1978; and

25 (4) any other state agency to which the

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1 Uniform Licensing Act is applied by law;

2 B. "applicant" means a person who has applied for a
3 license;

4 C. "department" means the commerce and economic
5 development department;

6 [~~E-~~] D. "license" means a certificate, permit or
7 other authorization to engage in each of the professions and
8 occupations regulated by the boards enumerated in Subsection
9 A of this section;

10 [~~D-~~] E. "revoke a license" means to prohibit the
11 conduct authorized by the license;

12 F. "secretary" means the secretary of commerce and
13 economic development; and

14 [~~E-~~] G. "suspend a license" means to prohibit, for
15 a stated period of time, the conduct authorized by the
16 license. "Suspend a license" also means to allow, for a
17 stated period of time, the conduct authorized by the license,
18 subject to conditions that are reasonably related to the
19 grounds for suspension [~~and~~

20 ~~F. "emergency" includes any man-made or natural~~
21 ~~disaster causing or threatening widespread physical or~~
22 ~~economic harm that is beyond local control and requires the~~
23 ~~resources of the state]."~~

24 Section 104. Section 67-16-3 NMSA 1978 (being Laws
25 1985, Chapter 23, Section 3, as amended) is amended to read:

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1 "67-16-3. DEFINITIONS.--As used in the Litter Control
2 and Beautification Act:

3 A. "keep America beautiful system" means a
4 comprehensive program to improve waste handling practices and
5 the control of litter;

6 B. "keep New Mexico beautiful, incorporated" is the
7 statewide organization that is the official clearinghouse for
8 beautification projects in the state;

9 C. "council" means the litter control council;

10 D. "department" means the [~~tourism~~] commerce and
11 economic development department;

12 E. "litter" means weeds, graffiti and all waste
13 material, including disposable packages or containers, but
14 not including the waste of the primary processes of mining,
15 logging, sawmilling or farming;

16 F. "person" means an individual, corporation,
17 partnership, association, firm, receiver, guardian, trustee,
18 executor, administrator, fiduciary or representative or group
19 of individuals or entities of any kind;

20 G. "public place" means an area that is used or
21 held out for use by the public, whether owned or operated by
22 public or private interests; and

23 H. "recycling" means the collection, separation or
24 processing and return to the economic mainstream of raw
25 materials or products that would otherwise become solid

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1 waste."

2 Section 105. Section 70-5-1 NMSA 1978 (being Laws 1947,
3 Chapter 214, Section 1, as amended) is amended to read:

4 "70-5-1. DEFINITIONS.--As used in the LPG and CNG Act:

5 A. "liquefied petroleum gases", "LPG" [~~and~~] or "LP
6 gas" means any material that is composed predominantly of any
7 of the following hydrocarbons or mixtures of them: propane,
8 propylene, butanes (normal butane or iso-butane) and
9 butylenes;

10 B. "compressed natural gases" [~~and~~] or "CNG" means
11 mixtures of hydrocarbon gases and vapors consisting
12 principally of methane in gaseous form [~~which has~~] that have
13 been compressed for vehicular fuel;

14 C. "product" or "products" of liquefied petroleum
15 gases or compressed natural gases are considered to be
16 liquefied petroleum gases or compressed natural gases
17 respectively;

18 D. "qualified instructor" means an employee who has
19 passed the required examination and performed for at least
20 one year the work being taught;

21 E. "inspector" means a person hired by the bureau
22 to enforce under administrative direction the laws and safety
23 rules [~~and regulations~~] of the LP gas industry and the use of
24 CNG in motor vehicles;

25 F. "division" means the construction industries

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1 division of the [~~regulation and licensing~~] commerce and
2 economic development department;

3 G. "bureau" means the liquefied petroleum [~~and~~
4 ~~compressed~~] gas bureau of the division; and

5 H. "commission" means the construction industries
6 commission."

7 Section 106. Section 77-1B-2 NMSA 1978 (being Laws
8 2007, Chapter 60, Section 2, as amended) is amended to read:

9 "77-1B-2. DEFINITIONS.--As used in the Animal
10 Sheltering Act:

11 A. "animal" means any animal, except humans, not
12 defined as "livestock" in Subsection L of this section;

13 B. "animal shelter":

14 (1) means:

15 (a) a county or municipal facility that
16 provides shelter to animals on a regular basis, including a
17 dog pound; and

18 (b) a private humane society or a private
19 animal shelter that temporarily houses stray, unwanted or
20 injured animals through administrative or contractual
21 arrangements with a local government agency; and

22 (2) does not include a municipal zoological
23 park;

24 C. "board" means the animal sheltering board;

25 D. "department" means the [~~regulation and~~

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1 ~~licensing]~~ commerce and economic development department;

2 E. "disposition" means adoption of an animal;
3 return of an animal to the owner; release of an animal to a
4 rescue organization; release of an animal to another animal
5 shelter or to a rehabilitator licensed by the department of
6 game and fish or the United States fish and wildlife service;
7 or euthanasia of an animal;

8 F. "emergency field euthanasia" means the process
9 defined by rule of the board to cause the death of an animal
10 in an emergency situation when safe and humane transport of
11 the animal is not possible;

12 G. "euthanasia" means to produce a humane death of
13 an animal by standards deemed acceptable by the board as set
14 forth in its rules;

15 H. "euthanasia agency" means a facility that
16 provides shelter to animals on a regular basis, including a
17 dog pound, a humane society or a public or private shelter
18 facility that temporarily houses stray, unwanted or injured
19 animals, and that performs euthanasia;

20 I. "euthanasia drugs" means non-narcotic schedule
21 II or schedule III substances and chemicals as set forth in
22 the Controlled Substances Act that are used for the purposes
23 of euthanasia and pre-euthanasia of animals;

24 J. "euthanasia instructor" means a veterinarian or
25 a euthanasia technician certified by the board to instruct

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1 other individuals in euthanasia techniques;

2 K. "euthanasia technician" means a person licensed
3 by the board to euthanize animals for a euthanasia agency;

4 L. "livestock" means all domestic or domesticated
5 animals that are used or raised on a farm or ranch and exotic
6 animals in captivity and includes horses, asses, mules,
7 cattle, sheep, goats, swine, bison, poultry, ostriches, emus,
8 rheas, camelids and farmed cervidae but does not include
9 canine or feline animals;

10 M. "rescue organization" means an organization that
11 rescues animals and is not involved in the breeding of
12 animals;

13 N. "supervising veterinarian" means a person who is
14 a veterinarian, who holds both a valid New Mexico controlled
15 substance license and a valid federal drug enforcement agency
16 license and who approves the drug protocols and the
17 procurement and administration of all pharmaceuticals; and

18 O. "veterinarian" means a person who is licensed as
19 a doctor of veterinary medicine by the board of veterinary
20 medicine pursuant to the Veterinary Practice Act."

21 Section 107. TEMPORARY PROVISION--TRANSFERS OF
22 FUNCTIONS, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS
23 AND STATUTORY REFERENCES.--

24 A. On the effective date of this act, all
25 functions, appropriations, money, records, furniture,

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1 equipment and other property of the economic development
2 department, the tourism department, the regulation and
3 licensing department and the workforce solutions department
4 are transferred to the commerce and economic development
5 department.

6 B. On the effective date of this act, all
7 contractual obligations of the economic development
8 department, the tourism department, the regulation and
9 licensing department and the workforce solutions department
10 or any division or other subordinate unit of those
11 departments are binding on the commerce and economic
12 development department.

13 C. On the effective date of this act:

14 (1) references in the law to the economic
15 development department, the tourism department, the
16 regulation and licensing department or the workforce
17 solutions department or any divisions of those departments
18 shall be deemed to be references to the commerce and economic
19 development department unless otherwise specified by law; and

20 (2) references in the law related to agencies'
21 administrative attachment to the regulation and licensing
22 department shall be deemed to be references to administrative
23 attachment to the administrative services division of the
24 commerce and economic development department.

25 D. The rules of the economic development

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1 department, tourism department, regulation and licensing
2 department or workforce solutions department shall be deemed
3 to be rules of the commerce and economic development
4 department, except that rules of the financial institutions
5 division and securities division of the regulation and
6 licensing department shall be deemed to be rules of the
7 financial institutions division and securities division of
8 the commerce and economic development department.

9 E. On the effective date of this act, all
10 functions, appropriations, money, records, furniture,
11 equipment and other property of the New Mexico film museum
12 are transferred to the cultural affairs department. All
13 contractual obligations of the New Mexico film museum are
14 binding on the cultural affairs department. All references
15 in law to the museum or the board of trustees shall be deemed
16 to be references to the cultural affairs department.

17 Section 108. REPEAL.--

18 A. Sections 9-15-1 through 9-15-55 NMSA 1978 (being
19 Laws 1983, Chapter 297, Sections 1 through 4, Laws 2003,
20 Chapter 97, Section 1, Laws 1983, Chapter 297, Sections 5
21 through 7, Laws 1983, Chapter 296, Section 21, Laws 1983,
22 Chapter 297, Section 10, Laws 1988, Chapter 81, Section 5,
23 Laws 1983, Chapter 297, Sections 12, 14 and 15, Laws 1991,
24 Chapter 21, Sections 21 through 24, Laws 1994, Chapter 113,
25 Section 2, Laws 1988, Chapter 80, Sections 3 and 4, Laws
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1 2005, Chapter 57, Section 1, Laws 1988, Chapter 80, Section
2 5, Laws 1989, Chapter 205, Sections 1 through 3, Laws 2005,
3 Chapter 67, Section 1, Laws 1991, Chapter 27, Sections 1 and
4 2, Laws 1993, Chapter 211, Sections 1 through 5 and also Laws
5 1993, Chapter 216, Sections 1 through 5, Laws 2003, Chapter
6 166, Sections 1 through 4 and also Laws 2003, Chapter 170,
7 Sections 1 through 4 and Laws 2007, Chapter 180, Sections 1
8 through 4, as amended) are repealed.

9 B. Sections 9-15A-1 through 9-15A-11 NMSA 1978
10 (being Laws 1991, Chapter 21, Sections 1 through 4, Laws
11 2003, Chapter 299, Section 1, Laws 1991, Chapter 21, Sections
12 5 through 7, Laws 1996, Chapter 25, Section 1, Laws 1993,
13 Chapter 101, Sections 10 and 11, Laws 2007, Chapter 286,
14 Sections 2 and 3 and Laws 2007, Chapter 287, Sections 2 and
15 3, as amended) are repealed.

16 C. Sections 9-15C-1 through 9-15C-5 NMSA 1978
17 (being Laws 2005, Chapter 219, Sections 1 through 5, as
18 amended) are repealed.

19 D. Sections 9-16-1 through 9-16-15 NMSA 1978 (being
20 Laws 1983, Chapter 297, Sections 17 through 29, Laws 1987,
21 Chapter 298, Section 1 and Laws 2009, Chapter 122, Section
22 59, as amended) are repealed.

23 E. Sections 9-26-1 through 9-26-15 NMSA 1978 (being
24 Laws 2007, Chapter 200, Sections 1 through 14 and 23) are
25 repealed.

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F. Sections 18-14-1 through 18-14-6 NMSA 1978
(being Laws 2003, Chapter 250, Sections 1 through 6, as
amended) are repealed.

G. Sections 60-2D-1 through 60-2D-18 NMSA 1978
(being Laws 1991, Chapter 233, Sections 1 through 18) are
repealed.

Section 109. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2010.