

HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 29

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

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE COMMERCE
DEPARTMENT; REPLACING THE ECONOMIC DEVELOPMENT DEPARTMENT AND
THE TOURISM DEPARTMENT; PROVIDING POWERS AND DUTIES;
ELIMINATING OR ADMINISTRATIVELY ATTACHING CERTAIN AUTHORITIES,
BOARDS, COMMISSIONS, COUNCILS AND COMMITTEES; PROVIDING FOR
SUNSETS OF ADMINISTRATIVELY ATTACHED AGENCIES; TRANSFERRING
FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL
OBLIGATIONS AND STATUTORY REFERENCES; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 25 of this act may be cited as the "Commerce Department
Act".

SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the
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1 Commerce Department Act is to establish a single, unified
2 department to administer laws and exercise functions formerly
3 administered and exercised by the economic development
4 department and the tourism department.

5 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
6 Commerce Department Act:

7 A. "department" means the commerce department; and

8 B. "secretary" means the secretary of commerce.

9 SECTION 4. [NEW MATERIAL] DEPARTMENT CREATED--
10 ORGANIZATIONAL UNITS.--

11 A. The "commerce department" is created as a
12 cabinet department and includes the following organizational
13 units:

14 (1) office of the secretary;

15 (2) administrative services division,

16 including the information technology bureau;

17 (3) economic development division, including:

18 (a) international trade bureau;

19 (b) marketing bureau;

20 (c) New Mexico film bureau; and

21 (d) enterprise development bureau; and

22 (4) tourism development division, including:

23 (a) New Mexico magazine bureau; and

24 (b) welcome centers bureau.

25 B. The secretary may establish, merge or eliminate

1 organizational units of the department for better efficiency
2 and effectiveness, but a reorganization of statutory divisions
3 or bureaus shall be reported to the next regular session of the
4 legislature.

5 SECTION 5. [NEW MATERIAL] ADMINISTRATIVELY ATTACHED
6 AGENCIES.--

7 A. The following are administratively attached to
8 the department:

9 (1) economic development and tourism
10 commission;

11 (2) military base planning commission and
12 office of military base planning;

13 (3) New Mexico-Chihuahua commission;

14 (4) New Mexico-Sonora commission;

15 (5) spaceport authority; and

16 (6) state fair commission.

17 B. The department shall provide administrative
18 services to administratively attached agencies.

19 SECTION 6. [NEW MATERIAL] SECRETARY OF COMMERCE.--The
20 chief executive and administrative officer of the department is
21 the "secretary of commerce". The secretary shall be appointed
22 by the governor with the consent of the senate. The secretary
23 shall hold that office at the pleasure of the governor and
24 shall serve in the executive cabinet.

25 SECTION 7. [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 Department Act, exercise general supervisory and
16 appointing authority over all department employees, subject to
17 any applicable personnel laws and rules;

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

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

24 (4) within the limitations of available
25 appropriations and applicable laws, employ and fix the

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1 compensation of those persons necessary to discharge the
2 secretary's duties;

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

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

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

17 (8) prepare an annual budget of the department
18 based on the five-year economic development and tourism plans;

19 (9) provide budgeting, recordkeeping and
20 related clerical assistance to administratively attached
21 agencies; and

22 (10) appoint a "director" for each division.
23 These appointed positions are exempt from the provisions of the
24 Personnel Act. Persons appointed to these positions shall
25 serve at the pleasure of the secretary.

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

5 D. The secretary may make and adopt such reasonable
6 procedural rules as may be necessary to carry out the duties of
7 the department and its divisions. No rule promulgated by the
8 director of any division in carrying out the functions and
9 duties of the division shall be effective until approved by the
10 secretary, unless otherwise provided by statute. Unless
11 otherwise provided by statute, no rule affecting any person or
12 agency outside the department shall be adopted, amended or
13 repealed without a public hearing on the proposed action before
14 the secretary or a hearing officer designated by the secretary.
15 The public hearing shall be held in Santa Fe unless otherwise
16 permitted by statute. Notice of the subject matter of the
17 rule, the action proposed to be taken, the time and place of
18 the hearing, the manner in which interested persons may present
19 their views and the method by which copies of the proposed rule
20 or proposed amendment or repeal of an existing rule may be
21 obtained shall be published once at least thirty days prior to
22 the hearing date in a newspaper of general circulation and
23 mailed at least thirty days prior to the hearing date to all
24 persons who have made a written request for advance notice of
25 hearing. All rules shall be filed in accordance with the State

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1 Rules Act.

2 SECTION 8. [NEW MATERIAL] BUREAUS--CHIEFS.--The secretary
3 shall establish with each division such "bureaus" as deemed
4 necessary to carry out the provisions of the Commerce
5 Department Act. The secretary shall employ a "chief" to be the
6 administrative head of each bureau. The chief and all
7 subsidiary employees of the department shall be covered by the
8 Personnel Act unless otherwise provided by law.

9 SECTION 9. [NEW MATERIAL] ORGANIZATIONAL UNITS OF
10 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO
11 INFORMATION.--Those organizational units of the department and
12 the officers of those units specified by law shall have all of
13 the powers and duties enumerated in the specific laws involved.
14 However, the carrying out of those powers and duties shall be
15 subject to the direction and supervision of the secretary, and
16 the secretary shall retain the final decision-making authority
17 and responsibility for the administration of any such laws as
18 provided in Subsection B of Section 7 of the Commerce
19 Department Act. The department shall have access to all
20 records, data and information of other state departments,
21 agencies and institutions, including its own organizational
22 units, not specifically held confidential by law. Any
23 information obtained by the department that is proprietary
24 technical information or related to the possible relocation or
25 expansion of a business shall be deemed confidential and

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1 withheld from inspection pursuant to the Inspection of Public
2 Records Act.

3 SECTION 10. [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 plans.

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 cause.

17 F. Commission members are entitled to receive
18 reimbursement for per diem and mileage as provided in the Per
19 Diem and Mileage Act but shall receive no other compensation,
20 perquisite or allowance.

21 G. The commission shall:

22 (1) develop and recommend policies and provide
23 policy and program guidance for the department;

24 (2) review, modify and approve annual updates
25 to the state's five-year economic development and tourism plans

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1 generated by the department;

2 (3) advise, assist and promote the department
3 on matters relating to economic development, tourism, tribal
4 tourism, technology, technology-based new business development
5 and technology commercialization projects, including small
6 business needs;

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

10 (5) establish such rules for its own
11 operations as are necessary to achieve the purposes of the
12 Commerce Department Act. Rules of the commission shall be
13 adopted in the same procedural manner as rules of the
14 department are adopted and shall be filed in accordance with
15 the State Rules Act.

16 H. The commission is terminated July 1, 2015
17 pursuant to the provisions of the Sunset Act unless continued
18 by law. The provisions of that act notwithstanding, there is
19 no wind-up period for the commission.

20 SECTION 11. [NEW MATERIAL] ADDITIONAL ECONOMIC
21 DEVELOPMENT DUTIES.--The department shall:

22 A. provide a coordinated statewide perspective with
23 regard to economic development activities;

24 B. work with and provide staff support to the
25 economic development and tourism commission in formulating and

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1 implementing the state's five-year economic development plan;

2 C. maintain and update records on the status of all
3 completed and ongoing economic development projects of the
4 department;

5 D. develop, maintain and provide economic and
6 demographic information to the governor, the legislature, other
7 state agencies and local governments;

8 E. serve as lead agency in coordination of the
9 census program at the state data center;

10 F. provide a database for local and regional
11 economic development groups and serve as a comprehensive source
12 of information and assistance to businesses wishing to locate
13 or expand in New Mexico;

14 G. actively encourage new economic enterprises to
15 locate in New Mexico and assist existing businesses to expand;

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

19 I. create and encourage methods designed to provide
20 rapid economic diversification development that will create new
21 employment opportunities for the residents of the state,
22 including the issuance of grants and loans to municipalities
23 and counties for economic enhancement projects;

24 J. provide for technology commercialization
25 projects as an incentive to industry locating or expanding in

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1 the state;

2 K. support technology transfer programs;

3 L. promote New Mexico as a technology conference
4 center;

5 M. promote and market federal and state technology
6 commercialization programs;

7 N. develop and implement enhanced statewide
8 procurement programs;

9 O. provide support and assistance in the creation
10 and operation of development finance mechanisms such as
11 business development corporations to ensure capital
12 availability for business expansion and economic
13 diversification; and

14 P. serve as the lead agency in coordination of the
15 census program at the state data center.

16 SECTION 12. [NEW MATERIAL] ADDITIONAL TOURISM PROMOTION
17 DUTIES.--The department shall:

18 A. provide a coordinated statewide perspective with
19 regard to tourism activities;

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

23 C. provide a database for local and regional
24 tourism groups and serve as a comprehensive source of
25 information and assistance to tourism-related businesses

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1 wishing to locate, expand or do business in New Mexico;

2 D. monitor the progress of state-supported tourism
3 activities and prepare annual reports of those activities and
4 their status and impact; and

5 E. maintain and update records on the status of all
6 completed and ongoing tourism-related projects of the
7 department.

8 SECTION 13. [NEW MATERIAL] ADDITIONAL DUTIES--INDIAN
9 ARTS, CRAFTS AND CULTURE--PROMOTION.--The department shall:

10 A. encourage the preservation and development of
11 Indian arts and crafts among the Indian nations, tribes and
12 pueblos of the state to increase the knowledge and appreciation
13 of those arts and crafts;

14 B. encourage the preservation of traditional rites
15 and ceremonials of Indian nations, tribes and pueblos to
16 increase knowledge and appreciation of those rites and
17 ceremonials; and

18 C. promote the intertribal ceremonial.

19 SECTION 14. [NEW MATERIAL] ADDITIONAL DUTIES--DEFENSE
20 CONVERSION TECHNOLOGY AND OTHER TECHNOLOGY.--

21 A. The department is the lead agency to promote
22 defense conversion technology, to coordinate the transfer of
23 defense technology and other technology from federal, state and
24 local government facilities to private sector industries and to
25 promote private-public partnership and business development

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1 programs. The department shall coordinate or accept federal
2 and state funds appropriated for conversion of defense
3 technologies and to coordinate technology transfer in
4 accordance with the state's technology development plan.

5 B. The department may contract with appropriate
6 partnership intermediaries to assist in the coordination of
7 defense conversion duties.

8 C. The department shall:

9 (1) oversee the activities of the
10 manufacturing productivity center and manufacturing extension
11 programs;

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

15 (3) coordinate appropriate divisions in the
16 department to provide technology export assistance;

17 (4) coordinate small business development and
18 assistance programs for new and existing businesses;

19 (5) work with appropriate entities to identify
20 sources of funding for capital expenditure programs and initial
21 venture programs;

22 (6) coordinate the development of regional
23 technology clusters; and

24 (7) provide support and coordination
25 assistance as deemed necessary by the economic development and

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1 tourism commission and the secretary to assist the state in
2 developing defense conversion industries.

3 SECTION 15. [NEW MATERIAL] DEPARTMENT COOPERATION WITH
4 LOCAL AND REGIONAL ECONOMIC DEVELOPMENT AGENCIES.--The
5 department shall cooperate with local and regional development
6 agencies, including:

7 A. coordinating activities of the department and
8 local or regional development agencies;

9 B. assisting in gathering information on local and
10 regional assets;

11 C. assisting in the establishment of procedures for
12 handling potential clients;

13 D. assisting in the development of a plan for the
14 expansion of the local or regional economic base;

15 E. assisting in marketing the benefits of local
16 communities by providing matching funds through the state
17 cooperative advertising program, which shall include as
18 eligible expenses travel and related costs to attract new
19 business investment into the communities;

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

22 G. identifying barriers to local or regional
23 economic development and developing plans to overcome such
24 barriers.

25 SECTION 16. [NEW MATERIAL] ADMINISTRATIVE SERVICES

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1 DIVISION.--

2 A. The administrative services division shall
3 provide administrative services to the department, including:

4 (1) keeping all official records of the
5 department and administratively attached agencies; and

6 (2) providing personnel administration,
7 financial management, procurement and budget preparation
8 services for the department and administratively attached
9 agencies.

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

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

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1 administration pursuant to vouchers signed by the secretary of
2 commerce.

3 SECTION 18. [NEW MATERIAL] ECONOMIC DEVELOPMENT
4 DIVISION.--

5 A. The economic development division shall:

6 (1) enhance the business climate to encourage
7 the start-up, relocation, development and growth of technology-
8 based industry in New Mexico;

9 (2) promote an expanded, diversified
10 technology-based economy, emphasizing areas that:

11 (a) derive from the state's
12 technological strengths;

13 (b) provide a commercial advantage; and

14 (c) lend themselves to a distributed
15 technology-based industry network;

16 (3) support in-state industries and attract
17 new industries to New Mexico;

18 (4) formulate and submit to the economic
19 development and tourism commission a five-year state technology
20 development plan;

21 (5) develop agreements with federal research,
22 development, testing and evaluating organizations and
23 universities to facilitate the transfer and commercialization
24 of technology;

25 (6) recommend to the secretary proposed

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1 projects and contracts in accordance with the policies,
2 procedures and guidelines established by the department;

3 (7) subject to the approval of the secretary,
4 apply for and accept any federal funds or grants and private
5 donations;

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

16 (9) prepare an annual report on:

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

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

21 (c) other activities of the division;

22 (10) maintain and update records on the status
23 of all completed and ongoing projects;

24 (11) request from each entity under contract
25 with the division a detailed description of tasks and

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

3 (12) perform such other duties as assigned by
4 the secretary.

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

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

19 SECTION 19. [NEW MATERIAL] ENTERPRISE DEVELOPMENT BUREAU
20 DUTIES--BUSINESS INCUBATORS.--

21 A. The enterprise development bureau of the
22 economic development division shall:

23 (1) provide information and assistance to
24 businesses wishing to relocate to New Mexico or to expand
25 within New Mexico by providing a centralized information

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1 service and assistance center;

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

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

6 (4) provide professional assistance and
7 information regarding licensing, permitting and taxation
8 procedures; and

9 (5) establish a reporting procedure to monitor
10 the success of the referral service.

11 B. Business incubators receiving state funds shall
12 be required to pass a state incubator certification program
13 administered by the bureau. The bureau shall certify business
14 incubators that submit documentation to the bureau that the
15 incubator has:

16 (1) a mission statement that defines the
17 incubator's role to assist entrepreneurs and support the growth
18 of businesses;

19 (2) a formal feasibility study indicating an
20 appropriate market and local community support and a business
21 plan;

22 (3) an effective governing board or an
23 appropriate oversight advisory board committed to the
24 incubator's mission;

25 (4) qualified management and staff to achieve

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1 the mission of the incubator and to help businesses;

2 (5) an ongoing business assistance program
3 that places the greatest value on client assistance and adds
4 value to client businesses by developing programs and
5 coordinating activities such as:

6 (a) technical assistance and consulting;

7 (b) coaching and mentoring, business
8 training workshops and seminars;

9 (c) providing marketing assistance;

10 (d) fostering networking opportunities
11 and links with other business service providers; and

12 (e) providing assistance in obtaining
13 financing;

14 (6) a facility that encourages innovation and
15 provides dedicated space for incubator client firms with
16 flexible leases and that includes a common area meeting space
17 and business equipment;

18 (7) a process for client businesses that
19 involves a screening and selection process and graduation
20 policy for client companies;

21 (8) a system for program evaluation;

22 (9) all applicable required licenses and
23 permits and a functional accounting system; and

24 (10) membership in the national business
25 incubation association.

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1 SECTION 20. ~~[NEW MATERIAL]~~ ARTISANS BUSINESS DEVELOPMENT
2 PROGRAM--FUND CREATED.--

3 A. The "New Mexico artisans business development
4 program" is created within the economic development division to
5 promote, in conjunction with the arts division of the cultural
6 affairs department, the New Mexico artisans industry by
7 establishing a greater demand for New Mexico artisans' wares
8 and by providing technical and marketing assistance to New
9 Mexico artisans. The purposes of the program include:

10 (1) educational workshops and seminars in
11 cooperation with the small business development centers for
12 artisans to assist the centers in the development of their
13 businesses and marketing of their wares;

14 (2) an assessment of a full range of marketing
15 strategies for artisan wares and relating those wares to target
16 markets;

17 (3) production of a promotional brochure of
18 New Mexico artisans and their products;

19 (4) development and publishing of a marketing
20 catalog of New Mexico artisans;

21 (5) establishment of a network of state and
22 national distribution points and gift and trade shows for the
23 promotion and export of New Mexico artisans' wares;

24 (6) development of a state and national
25 marketing and exhibitions calendar;

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1 (7) participation in state and national
2 promotional shows by New Mexico artisans; and

3 (8) development of a marketing network with
4 private-sector distributors, catalog producers and retailers.

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

15 SECTION 21. [NEW MATERIAL] TECHNOLOGY-BASED PROPOSALS--
16 STATE MATCH FUND--CREATED.--

17 A. The "state match fund" is created in the state
18 treasury. Money in the fund is appropriated to the department
19 to provide a pool of matching funds for technology-based
20 proposals submitted to the federal government on behalf of the
21 state. Money in the fund shall only be expended upon review
22 and approval of the economic development and tourism
23 commission.

24 B. No money in the fund appropriated to it or
25 accruing to it in any manner shall be transferred to another

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1 fund or encumbered or dispersed in any manner except for the
2 purposes set forth in this section. Disbursements from the
3 fund shall only be made upon warrant drawn by the secretary of
4 finance and administration pursuant to vouchers signed by the
5 secretary of commerce or the secretary's authorized
6 representative.

7 SECTION 22. [NEW MATERIAL] INTERNATIONAL TRADE BUREAU
8 DUTIES.--The international trade bureau is responsible for
9 conducting and coordinating the state's relations with other
10 countries and promoting New Mexico and its products and
11 services. The bureau shall:

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

15 B. promote New Mexico to international investors;

16 C. promote New Mexico products and services to
17 potential international consumers;

18 D. establish a central registry for New Mexico
19 products and services;

20 E. develop, maintain and use a database of
21 potential domestic and international investors and consumers
22 for New Mexico and its products and services;

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

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

4 SECTION 23. [NEW MATERIAL] MEXICAN TRADE--INTERNATIONAL
5 TRADE BUREAU DUTIES.--The international trade bureau is
6 responsible for:

7 A. conducting and coordinating the state's
8 relations with the Republic of Mexico and the state of
9 Chihuahua;

10 B. promoting New Mexico products and services in
11 Mexico;

12 C. coordinating activities of the department, the
13 cultural affairs department, the department of transportation,
14 the department of health, the department of environment, the
15 department of public safety, the New Mexico-Chihuahua
16 commission and the joint border research institute at New
17 Mexico state university as those activities relate to improving
18 New Mexico-Mexico relations and trade and encouraging or
19 funding appropriate border development;

20 D. establishing and annually updating the New
21 Mexico trade registry of New Mexico businesses and the products
22 and services they offer to consumers; and

23 E. providing periodic reports to the New Mexico
24 finance authority oversight committee on its activities and the
25 activities of the state pertaining to New Mexico-Mexico

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1 relations, trade and border development.

2 SECTION 24. [NEW MATERIAL] MINORITY BUSINESS ASSISTANCE--
3 ECONOMIC DEVELOPMENT DIVISION DUTIES.--

4 A. As used in this section, "minority business"
5 means a business, with its principal place of business in New
6 Mexico:

7 (1) the majority ownership of which is held by
8 persons who are residents of New Mexico and who are African
9 Americans, Hispanic Americans, Asian Americans or Native
10 Americans; and

11 (2) that employs twenty or fewer people.

12 B. The economic development division shall develop
13 and implement a minority business assistance program to
14 facilitate the entrance of minority businesses, located
15 throughout the state, into the marketplace. As part of the
16 development and implementation of the program, the division
17 shall:

18 (1) develop a process to define and identify
19 minority businesses that may benefit from additional assistance
20 and training in the areas of general business practices,
21 accounting principles, business ethics, technical expertise,
22 marketing and government procurement;

23 (2) develop a registry of well-established
24 businesses, persons within those businesses, retirees and other
25 persons that have the expertise and skills that may be needed

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1 by minority businesses and that have expressed a desire to
2 volunteer as a mentor or otherwise to assist minority
3 businesses;

4 (3) develop an outreach and marketing program
5 so that minority businesses may become aware of the assistance
6 available and so that needed, experienced persons are aware of
7 the opportunity to mentor and assist minority businesses;

8 (4) develop training materials and in-house
9 training expertise; and

10 (5) create a mentorship program in which
11 employees or agents of the division or department or volunteers
12 with business experience will visit minority businesses for the
13 purpose of training, mentoring, advising and otherwise
14 assisting the minority businesses in the development or
15 improvement of general business practices, accounting
16 principles, business ethics, technical expertise, marketing and
17 government procurement.

18 C. In performing its duties pursuant to this
19 section, the division may:

20 (1) to the extent money has been appropriated
21 for such purposes, develop a grant program for minority
22 businesses to acquire the expertise necessary to compete
23 effectively; and

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

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1 D. All state agencies shall cooperate with the
2 division in carrying out the provisions of this section and
3 shall, as the opportunity arises, assist minority businesses
4 and encourage other businesses and persons to register as
5 volunteers pursuant to this section.

6 SECTION 25. [NEW MATERIAL] MINORITY BUSINESS ASSISTANCE
7 FUND--CREATED.--The "minority business assistance fund" is
8 created as a nonreverting fund in the state treasury. The fund
9 consists of appropriations, gifts, grants, donations, bequests
10 and income from investment of the fund. Money in the fund is
11 subject to appropriation by the legislature to the department
12 for the purposes of carrying out the provisions of Section 25
13 of the Commerce Department Act. Disbursements from the fund
14 shall be made on warrant of the secretary of finance and
15 administration pursuant to vouchers signed by the secretary of
16 commerce or the secretary's designee.

17 SECTION 26. Section 3-60B-4 NMSA 1978 (being Laws 1985,
18 Chapter 88, Section 4, as amended) is amended to read:

19 "3-60B-4. MAIN STREET PROGRAM--CREATED--COORDINATOR--
20 POWERS AND DUTIES.--

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

25 B. The coordinator shall:

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

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

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

12 (4) monitor the progress of main street
 13 projects;

14 (5) assist local main street project managers;
 15 and

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

18 SECTION 27. Section 3-60C-4 NMSA 1978 (being Laws 2007,
 19 Chapter 103, Section 4, as amended) is amended to read:

20 "3-60C-4. MAIN STREET REVOLVING LOAN COMMITTEE--COMMITTEE
 21 AND DIVISION DUTIES.--

22 A. The "main street revolving loan committee" is
 23 created, consisting of six members as follows:

24 (1) the director of the division or the
 25 director's designee;

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

3 (3) the chair of the cultural properties
4 review committee or the chair's designee;

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

8 (5) a member appointed by the governor with
9 expertise in small loans; and

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

13 B. ~~[Public]~~ Members of the committee shall not ~~[be~~
14 ~~paid but shall be reimbursed for]~~ receive per diem and mileage
15 ~~[pursuant to the Per Diem and Mileage Act]~~ or other
16 compensation for their services.

17 C. The committee shall:

18 (1) elect a chair and such other officers as
19 it deems necessary;

20 (2) meet at the call of the chair but no less
21 than four times per year;

22 (3) by rule 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) after considering the recommendations of
3 the division, make awards of loans or loan subsidies; and

4 (5) approve expenditures by the division for
5 marketing, managing and administering the loan program.

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

12 E. The division shall:

13 (1) review applications for loans and loan
14 subsidies and make recommendations to the committee;

15 (2) administer all loans and loan subsidies;

16 (3) serve as staff to the committee; and

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

21 **SECTION 28.** Section 5-10-1 NMSA 1978 (being Laws 1993,
22 Chapter 297, Section 1) is amended to read:

23 "5-10-1. SHORT TITLE.--~~[This act]~~ Chapter 5, Article 10
24 NMSA 1978 may be cited as the "Local Economic Development
25 Act"."

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1 SECTION 29. Section 5-10-3 NMSA 1978 (being Laws 1993,
2 Chapter 297, Section 3, as amended) is amended to read:

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

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

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

16 C. "department" means the [~~economic development~~]
17 commerce department;

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

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

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

17 F. "local government" means a municipality or
18 county;

19 G. "municipality" means an incorporated city, town
20 or village;

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

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

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1 or more of the following:

2 (1) an industry for the manufacturing,
3 processing or assembling of agricultural or manufactured
4 products;

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

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

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

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

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

25 (7) a business that is the developer of a

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1 metropolitan redevelopment project; and

2 (8) a cultural facility; and

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

8 SECTION 30. Section 6-21-31 NMSA 1978 (being Laws 1992,
9 Chapter 61, Section 31) is amended to read:

10 "6-21-31. POWERS AND DUTIES.--The New Mexico finance
11 authority oversight committee shall:

12 A. monitor and oversee the operation of the New
13 Mexico finance authority;

14 B. meet on a regular basis to receive and review
15 reports from the authority on implementation of the provisions
16 of the New Mexico Finance Authority Act and to review and
17 approve [~~regulations~~] rules proposed for adoption pursuant to
18 that act;

19 C. monitor and provide assistance and advice on the
20 public project financing program of the New Mexico finance
21 authority;

22 D. oversee and monitor state and local government
23 capital planning and financing and take testimony from state
24 and local officials on state and local capital needs;

25 E. provide advice and assistance to the New Mexico

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1 finance authority and cooperate with the executive branch of
2 state government and local governments on planning, setting
3 priorities for and financing of state and local capital
4 projects;

5 F. undertake an ongoing examination of the
6 statutes, constitutional provisions, regulations and court
7 decisions governing state and local government capital
8 financing in New Mexico; [~~and~~]

9 G. monitor and provide advice and assistance on
10 border economic development activities, particularly state and
11 local government capital planning and financing of border and
12 port-of-entry capital projects; and

13 [~~G-~~] H. report its findings and recommendations,
14 including recommended legislation or necessary changes, to the
15 governor and to each session of the legislature. The report
16 and proposed legislation shall be made available on or before
17 December 15 each year."

18 **SECTION 31.** Section 6-25-3 NMSA 1978 (being Laws 2003,
19 Chapter 349, Section 3, as amended) is amended to read:

20 "6-25-3. DEFINITIONS.--As used in the Statewide Economic
21 Development Finance Act:

22 A. "authority" means the New Mexico finance
23 authority;

24 B. "department" means the [~~economic development~~]
25 commerce department;

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1 C. "community development entity" means an entity
2 designed to take advantage of the federal new markets tax
3 credit program;

4 D. "economic development assistance provisions"
5 means the economic development assistance provisions of
6 Subsection D of Article 9, Section 14 of the constitution of
7 New Mexico;

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

12 F. "economic development goal" means:

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

15 (2) retention and expansion of existing
16 business enterprises;

17 (3) attraction of new business enterprises; or

18 (4) creation and promotion of an environment
19 suitable for the support of start-up and emerging business
20 enterprises within the state;

21 G. "economic development revolving fund bonds"
22 means bonds, notes or other instruments payable from the fund
23 and issued by the authority pursuant to the Statewide Economic
24 Development Finance Act;

25 H. "eligible entity" means a for-profit or not-for-

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1 profit business enterprise, including a corporation, limited
2 liability company, partnership or other entity, determined by
3 the department to be engaged in an enterprise that serves an
4 economic development goal and is suitable for financing
5 assistance;

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

10 J. "financing assistance" means project revenue
11 bonds, loans, loan participations or loan guarantees provided
12 by the authority to or for eligible entities pursuant to the
13 Statewide Economic Development Finance Act;

14 K. "fund" means the economic development revolving
15 fund;

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

18 M. "opt-in agreement" means an agreement entered
19 into between the department and a qualifying county, a school
20 district and, if applicable, a qualifying municipality that
21 provides for county, school district and, if applicable,
22 municipal approval of a project, subject to compliance with all
23 local zoning, permitting and other land use rules, and for
24 payments in lieu of taxes to the qualifying county, school
25 district and, if applicable, qualifying municipality as

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1 provided by the Statewide Economic Development Finance Act;

2 N. "payment in lieu of taxes" means the total
3 annual payment, including any state in-lieu payment, paid as
4 compensation for the tax impact of a project, in an amount
5 negotiated and determined in the opt-in agreement between the
6 department and the qualifying county, the school district and,
7 if applicable, the qualifying municipality, which payment shall
8 be distributed to the county, municipality and school district
9 in the same proportion as property tax revenues are normally
10 distributed to those recipients;

11 O. "standard project" means land, buildings,
12 improvements, machinery and equipment, operating capital and
13 other personal property for which financing assistance is
14 provided for adequate consideration, taking into account the
15 anticipated quantifiable benefits of the standard project, for
16 use by an eligible entity as:

- 17 (1) industrial or manufacturing facilities;
- 18 (2) commercial facilities, including
19 facilities for wholesale sales and services;
- 20 (3) health care facilities, including
21 hospitals, clinics, laboratory facilities and related office
22 facilities;
- 23 (4) educational facilities, including schools;
- 24 (5) arts, entertainment or cultural
25 facilities, including museums, theaters, arenas or assembly

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1 halls; and

2 (6) recreational and tourism facilities,
3 including parks, pools, trails, open space and equestrian
4 facilities;

5 P. "project" means a standard project or a state
6 project;

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

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

12 (1) the benefits an eligible entity contracts
13 to provide, such as local hiring quotas, job training
14 commitments and installation of public facilities or
15 infrastructure; and

16 (2) other benefits such as the total number of
17 direct and indirect jobs created by the project, total amount
18 of annual salaries to be paid as a result of the project, total
19 gross receipts and occupancy tax collections, total property
20 tax collections, total state corporate and personal income tax
21 collections and other fee and revenue collections resulting
22 from the project;

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

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1 T. "state in-lieu payment" means an annual payment,
 2 in an amount determined by the department, that will be
 3 distributed to a qualifying county, a school district and, if
 4 applicable, a qualifying municipality in the same proportion as
 5 property tax revenues are normally distributed to those
 6 recipients;

7 U. "state project" means land, buildings or
 8 infrastructure for facilities to support new or expanding
 9 eligible entities for which financing assistance is provided
 10 pursuant to the economic development assistance provisions; and

11 V. "tax impact of a project" means the annual
 12 reduction in property tax revenue to affected property tax
 13 revenue recipients directly resulting from the conveyance of a
 14 project to the department."

15 **SECTION 32.** Section 12-13A-1 NMSA 1978 (being Laws 2003,
 16 Chapter 9, Section 1) is amended to read:

17 "12-13A-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article
 18 13A NMSA 1978 may be cited as the "New Mexico-Chihuahua
 19 Commission Act"."

20 **SECTION 33.** Section 12-13A-4 NMSA 1978 (being Laws 2003,
 21 Chapter 9, Section 4) is amended to read:

22 "12-13A-4. NEW MEXICO-CHIHUAHUA COMMISSION CREATED--
 23 MEMBERS--ADMINISTRATION.--

24 A. The "New Mexico-Chihuahua commission" is created
 25 and is administratively attached to the ~~[economic development]~~

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1 commerce department.

2 B. The members of the commission representing New
3 Mexico shall be:

4 (1) the governor of New Mexico;

5 (2) the secretary of [~~economic development~~]
6 commerce;

7 [~~(3) the secretary of tourism;~~

8 ~~(4)] (3) other state officials as assigned by
9 the governor; and~~

10 [~~(5)] (4) no more than ten members of the
11 public appointed by the governor of New Mexico.~~

12 C. The members of the commission representing
13 Chihuahua shall be appointed or assigned according to the
14 customary procedure of the executive branch of the government
15 of that state.

16 D. The [~~economic development~~] commerce department
17 shall provide administrative assistance to the commission as
18 needed.

19 E. The [~~economic development~~] commerce department
20 shall keep records of commission proceedings.

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

23 G. Meetings of the commission shall be at the call
24 of the co-chairs or pursuant to the request of a majority of
25 the members of the commission.

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1 H. Terms for public members of the commission
2 appointed by the governor of New Mexico shall be for two years
3 with reappointment to additional terms at the discretion of the
4 governor.

5 I. A vacancy in a term of a commission member
6 representing New Mexico shall be filled by appointment by the
7 governor of New Mexico for the remainder of the term of the
8 position vacated.

9 J. The public members of the commission appointed
10 by the governor of New Mexico shall not receive per diem and
11 mileage [~~pursuant to the Per Diem and Mileage Act~~] or other
12 compensation for performance of official duties required by the
13 commission [~~and shall receive no other compensation, perquisite~~
14 ~~or allowance~~]."

15 **SECTION 34.** Section 12-13B-1 NMSA 1978 (being Laws 2009,
16 Chapter 108, Section 1) is amended to read:

17 "12-13B-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article
18 13B NMSA 1978 may be cited as the "New Mexico-Sonora Commission
19 Act"."

20 **SECTION 35.** Section 12-13B-3 NMSA 1978 (being Laws 2009,
21 Chapter 108, Section 3) is amended to read:

22 "12-13B-3. NEW MEXICO-SONORA COMMISSION CREATED--
23 MEMBERS--ADMINISTRATION.--

24 A. The "New Mexico-Sonora commission" is created
25 and is administratively attached to the [~~economic development~~]

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1 commerce department.

2 B. The members of the commission representing New
3 Mexico shall be:

4 (1) the governor of New Mexico;

5 (2) the secretary of [~~economic development~~]
6 commerce;

7 [~~(3) the secretary of tourism;~~

8 ~~(4)] (3) other state officials as assigned by
9 the governor; and~~

10 [~~(5)] (4) no more than nine members of the
11 public appointed by the governor of New Mexico.~~

12 C. The members of the commission representing
13 Sonora shall be appointed or assigned according to regulations
14 and procedures governing commissions in that state.

15 D. The [~~economic development~~] commerce department
16 shall provide administrative assistance to the commission as
17 needed.

18 E. The [~~economic development~~] commerce department
19 shall keep a record of commission proceedings.

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

22 G. Meetings of the commission shall be at the call
23 of the co-chairs or pursuant to the request of a majority of
24 the members of the commission.

25 H. Terms for public members of the commission

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1 appointed by the governor of New Mexico shall be for two years
 2 with reappointment to additional terms at the discretion of the
 3 governor.

4 I. A vacancy in a term of a commission member
 5 representing New Mexico shall be filled by appointment by the
 6 governor of New Mexico for the remainder of the term of the
 7 position vacated.

8 J. The public members of the commission appointed
 9 by the governor of New Mexico shall not receive per diem and
 10 mileage [~~pursuant to the Per Diem and Mileage Act~~] or other
 11 compensation for performance of official duties required by the
 12 commission [~~and shall receive no other compensation, perquisite~~
 13 ~~or allowance~~]."

14 SECTION 36. Section 16-6-5 NMSA 1978 (being Laws 1977,
 15 Chapter 245, Section 18, as amended) is amended to read:

16 "16-6-5. STATE FAIR COMMISSION ADMINISTRATIVELY ATTACHED
 17 TO [~~TOURISM~~] COMMERCE DEPARTMENT.--The state fair commission is
 18 administratively attached [~~as defined in the Executive~~
 19 ~~Reorganization Act~~] to the [~~tourism~~] commerce department."

20 SECTION 37. Section 9-15-48 NMSA 1978 (being Laws 2003,
 21 Chapter 166, Section 1 and Laws 2003, Chapter 170, Section 1,
 22 as amended) is recompiled in Chapter 20 NMSA 1978 and is
 23 amended to read:

24 "OFFICE OF MILITARY BASE PLANNING AND SUPPORT CREATED--
 25 DUTIES.--

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1 A. The "office of military base planning and
2 support" is created, which is administratively attached to the
3 [~~economic development~~] commerce department. The department
4 shall provide administrative services to the office.

5 B. The governor's homeland security adviser shall
6 appoint a director of the office of military base planning and
7 support.

8 C. The director of the office of military base
9 planning and support shall:

10 (1) employ, under the authorization of the
11 governor's homeland security adviser, the staff necessary to
12 carry out the work of the office of military base planning and
13 support and the military base planning commission;

14 (2) support the commission;

15 (3) inform the governor and the governor's
16 homeland security adviser about issues [~~impacting~~] affecting
17 the military bases in the state, including infrastructure
18 requirements, environmental needs, military force structure
19 possibilities, tax implications, property considerations and
20 issues requiring coordination and support from other state
21 agencies;

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

25 (5) communicate with the staff of the state's

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1 congressional delegation; and

2 (6) identify issues, prepare information and
3 provide for presentations necessary for the commission to carry
4 out its duties."

5 SECTION 38. Section 9-15-49 NMSA 1978 (being Laws 2003,
6 Chapter 166, Section 2 and Laws 2003, Chapter 170, Section 2,
7 as amended) is recompiled in Chapter 20 NMSA 1978 and is
8 amended to read:

9 "MILITARY BASE PLANNING COMMISSION CREATED--COMPOSITION.--

10 A. The "military base planning commission" is
11 created, which is administratively attached to the [~~economic~~
12 ~~development~~] commerce department. The department shall provide
13 administrative services to the commission.

14 B. The commission consists of seventeen members,
15 fifteen of [~~which~~] whom are appointed by the governor with the
16 advice and consent of the senate. The commission shall include
17 the lieutenant governor, the governor's homeland security
18 adviser and appropriate representatives from the counties, or
19 adjoining counties, in which military bases are located.

20 C. The governor shall appoint a chair from among
21 the members of the commission. The commission shall meet at
22 the call of the chair and shall meet not less than quarterly.
23 Members of the commission shall not be paid but shall receive
24 per diem and mileage expenses as provided in the Per Diem and
25 Mileage Act.

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1 D. Notwithstanding the provisions of the Open
2 Meetings Act, meetings of the commission shall be closed to the
3 public when proprietary alternative New Mexico military base
4 realignment or closure strategies or any information regarding
5 relocation of military units is discussed.

6 E. Information developed or obtained by the
7 commission that pertains to proprietary commission strategies
8 or that is related to the relocation of military units shall be
9 confidential and not subject to inspection pursuant to the
10 Inspection of Public Records Act."

11 **SECTION 39.** Section 21-2-6 NMSA 1978 (being Laws 1978,
12 Chapter 54, Section 1, as amended) is amended to read:

13 "21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND
14 PERSONS.--

15 A. The [~~state commission~~] higher education
16 department in carrying out its planning activities for post-
17 secondary education shall consult with and invite the active
18 participation of:

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

22 (2) the public education commission;

23 (3) the public education department;

24 (4) representatives of public and private
25 elementary and secondary schools;

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1 (5) the secretary of [~~labor~~] workforce
2 solutions;

3 (6) the [~~tourism department~~] secretary of
4 commerce;

5 (7) the apprenticeship council;

6 [~~(8) the economic development department;~~
7 ~~(9)] (8) the state advisory council on~~

8 vocational education;

9 [~~(10)] (9) the secretary of finance and~~

10 administration or the secretary's designee;

11 [~~(11)] (10) persons familiar with the~~

12 education needs of persons with a disability and persons

13 disadvantaged by economic, racial or ethnic status;

14 [~~(12)] (11) representatives of business,~~

15 industry, organized labor and agriculture;

16 [~~(13)] (12) the general public; and~~

17 [~~(14)] (13) private in-state post-secondary~~

18 institutions.

19 B. Whenever the planning activities carried out
20 under the provisions of Section 21-2-5 NMSA 1978 are concerned
21 with the types of post-secondary education enumerated in
22 Subparagraphs (a) through (e) of Paragraph (1) of Subsection A
23 of Section 21-2-2 NMSA 1978, the [~~state commission~~] commerce
24 department shall directly involve the public education
25 commission and the public education department in all planning

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1 activities."

2 SECTION 40. Section 21-19-10 NMSA 1978 (being Laws 1983,
3 Chapter 299, Section 4, as amended) is amended to read:

4 "21-19-10. COMMUNITY DEVELOPMENT ASSISTANCE.--The
5 [~~economic development~~] commerce department shall provide
6 assistance to political subdivisions of the state so that they
7 can construct or implement projects necessary to provide
8 services that will encourage the location of industry in the
9 political subdivisions. The department shall, for this
10 purpose, make low-interest loans to political subdivisions of
11 the state with the approval of the economic development and
12 tourism commission and after coordination with the local
13 government division of the department of finance and
14 administration pursuant to the New Mexico Community Assistance
15 Act."

16 SECTION 41. Section 53-7B-1 NMSA 1978 (being Laws 2009,
17 Chapter 66, Section 1) is amended to read:

18 "53-7B-1. SHORT TITLE.--~~[Sections 1 through 10 of this~~
19 ~~act]~~ Chapter 53, Article 7B NMSA 1978 may be cited as the "New
20 Mexico Research Applications Act"."

21 SECTION 42. Section 53-7B-3 NMSA 1978 (being Laws 2009,
22 Chapter 66, Section 3) is amended to read:

23 "53-7B-3. DEFINITIONS.--As used in the New Mexico
24 Research Applications Act:

25 A. "board" means the board of directors of the

1 research applications center;

2 B. "department" means the [~~economic development~~]
3 commerce department;

4 C. "research applications center" means the
5 nonprofit corporation created pursuant to the Nonprofit
6 Corporation Act and the New Mexico Research Applications Act;

7 D. "technological innovations" includes research,
8 development, prototype assembly, manufacturing, patenting,
9 licensing, marketing and sale of inventions, ideas, practices,
10 applications, processes, machines and technology and related
11 property rights of all kinds; and

12 E. "university" means:

13 (1) a New Mexico educational institution named
14 in Article 12, Section 11 of the constitution of New Mexico;

15 (2) a community college organized pursuant to
16 the Community College Act or pursuant to Chapter 21, Article 14
17 NMSA 1978; or

18 (3) a technical and vocational institute
19 organized pursuant to the Technical and Vocational Institute
20 Act."

21 SECTION 43. Section 57-3C-1 NMSA 1978 (being Laws 2001,
22 Chapter 346, Section 1) is amended to read:

23 "57-3C-1. SHORT TITLE.--~~[This act]~~ Chapter 57, Article 3C
24 NMSA 1978 may be cited as the "Patent and Copyright Act"."

25 SECTION 44. Section 57-3C-2 NMSA 1978 (being Laws 2001,

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1 Chapter 346, Section 2) is amended to read:

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

4 A. "department" means the [~~economic development~~]
5 commerce department;

6 B. "patent" means the grant of certain property
7 rights in an invention, as defined in federal patent laws, to
8 an inventor that includes the right to exclude others from
9 making, using, offering for sale, selling or importing the
10 invention; and

11 C. "copyright" means the property rights, as
12 defined in federal copyright laws, in original works of
13 authorship."

14 SECTION 45. Section 58-31-1 NMSA 1978 (being Laws 2005,
15 Chapter 128, Section 1) is amended to read:

16 "58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article 31
17 NMSA 1978 may be cited as the "Spaceport Development Act"."

18 SECTION 46. Section 58-31-4 NMSA 1978 (being Laws 2005,
19 Chapter 128, Section 4) is amended to read:

20 "58-31-4. SPACEPORT AUTHORITY CREATED--MEMBERSHIP.--

21 A. The "spaceport authority" is created. The
22 authority is a state agency and is administratively attached to
23 the [~~economic development~~] commerce department.

24 B. The authority shall consist of seven voting and
25 [~~two~~] one nonvoting members, six of whom shall be appointed by

1 the governor with the consent of the senate; provided that one
 2 of the appointed members shall be a resident of Sierra county.
 3 No more than three appointed members shall belong to the same
 4 political party. The seventh member shall be the secretary of
 5 [~~economic development~~] commerce or the secretary's designee.
 6 The lieutenant governor shall serve as a nonvoting ex-officio
 7 member. [~~The executive director of the authority shall serve~~
 8 ~~as a nonvoting member.~~] The chair may appoint a nonvoting
 9 advisory committee to provide advice and recommendations on
 10 authority matters.

11 C. The members appointed by the governor shall be
 12 residents of the state and shall serve for terms of four years,
 13 except for the initial appointees who shall be appointed so
 14 that the terms are staggered after initial appointment.
 15 Initial appointees shall serve terms as follows: two members
 16 for two years, two members for three years and two members for
 17 four years.

18 D. Appointed voting members of the authority
 19 [~~shall~~] are entitled to be reimbursed for per diem and mileage
 20 in accordance with the provisions of the Per Diem and Mileage
 21 Act that apply to [~~nonsalaried public officers, unless a~~
 22 ~~different provision of that act applies to a specific member,~~
 23 ~~in which case that member shall be paid under the applicable~~
 24 ~~provision~~] state employees. Members and advisors shall receive
 25 no other compensation, perquisite or allowance for serving as a

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1 member of or advisor to the authority.

2 E. The secretary of [~~economic development~~] commerce
3 or the secretary's designee shall serve as the chair of the
4 authority. Authority members shall elect any other officers
5 from the membership that the authority determines appropriate.

6 F. The chair, four other authority voting members
7 appointed by the chair and the executive director of the
8 authority shall constitute the spaceport authority executive
9 committee. The committee shall have powers and duties as
10 delegated to it by the authority.

11 G. If a vacancy occurs among the appointed voting
12 members of the authority, the governor shall appoint a
13 replacement to serve out the term of the former member. If an
14 appointed member's term expires, the member shall continue to
15 serve until the member is reappointed or another person is
16 appointed and [~~confirmed by the senate to replace the member~~]
17 qualified.

18 H. The authority shall meet at the call of the
19 chair and shall meet in regular session at least once every
20 three months.

21 I. The authority shall maintain written minutes of
22 all meetings of the authority and maintain other appropriate
23 records, including financial transaction records in compliance
24 with law and adequate to provide an accurate record for audit
25 purposes pursuant to the Audit Act."

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1 SECTION 47. Section 67-16-1 NMSA 1978 (being Laws 1985,
2 Chapter 23, Section 1) is amended to read:

3 "67-16-1. SHORT TITLE.--~~[This act]~~ Chapter 67, Article 16
4 NMSA 1978 may be cited as the "Litter Control and
5 Beautification Act".

6 SECTION 48. Section 67-16-3 NMSA 1978 (being Laws 1985,
7 Chapter 23, Section 3, as amended) is amended to read:

8 "67-16-3. DEFINITIONS.--As used in the Litter Control and
9 Beautification Act:

10 A. "keep America beautiful system" means a
11 comprehensive program to improve waste handling practices and
12 the control of litter;

13 B. "keep New Mexico beautiful, incorporated" is the
14 statewide organization that is the official clearinghouse for
15 beautification projects in the state;

16 ~~[C. "council" means the litter control council;~~

17 ~~D.]~~ C. "department" means the ~~[tourism]~~ commerce
18 department;

19 ~~[E.]~~ D. "litter" means weeds, graffiti and all
20 waste material, including disposable packages or containers,
21 but not including the waste of the primary processes of mining,
22 logging, sawmilling or farming;

23 ~~[F.]~~ E. "person" means an individual, corporation,
24 partnership, association, firm, receiver, guardian, trustee,
25 executor, administrator, fiduciary or representative or group

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1 of individuals or entities of any kind;

2 [G.] F. "public place" means an area that is used
3 or held out for use by the public, whether owned or operated by
4 public or private interests; and

5 [H.] G. "recycling" means the collection,
6 separation or processing and return to the economic mainstream
7 of raw materials or products that would otherwise become solid
8 waste."

9 SECTION 49. Section 67-16-5 NMSA 1978 (being Laws 1985,
10 Chapter 23, Section 5) is amended to read:

11 "67-16-5. LITTER CONTROL COORDINATOR.--The department
12 shall appoint a litter control coordinator to coordinate [~~the~~
13 ~~activities of the council within three months after the~~
14 ~~effective date of the Litter Control and Beautification Act]~~
15 state and local beautification efforts."

16 SECTION 50. Section 67-16-7 NMSA 1978 (being Laws 1989,
17 Chapter 10, Section 4) is amended to read:

18 "67-16-7. MEASUREMENT AND EVALUATION.--The department
19 shall document and report on an annual basis the effectiveness
20 and impact of [~~council-sponsored~~] department-sponsored litter
21 control and beautification programs through the following:

22 A. evaluate and report on all governmental entities
23 and keep New Mexico beautiful, incorporated projects and
24 activities funded by the [~~council~~] department. The photometric
25 index technique shall be a part of this report in communities

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1 where appropriate and available;

2 B. evaluate and report on the placement and
3 management of litter receptacles placed on state property as
4 funded by the Litter Control and Beautification Act; and

5 C. investigate and report on the feasibility,
6 appropriateness and cost of a statewide photometric index or
7 other technique for the evaluation of highway litter."

8 SECTION 51. Section 67-16-10 NMSA 1978 (being Laws 1985,
9 Chapter 23, Section 10, as amended) is amended to read:

10 "67-16-10. LITTER BAG.--The [~~council~~] department shall
11 design and produce a litter bag bearing the state anti-litter
12 symbol, Dusty Roadrunner, and a statement of the penalties
13 prescribed for littering. Litter bags shall be distributed by
14 the motor vehicle division of the taxation and revenue
15 department and the department of game and fish at no charge at
16 the time and place of the issuance of licenses or renewal
17 thereof. The state may provide litter bags at no charge to
18 tourists and visitors at points of entry into the state. The
19 [~~council~~] department may establish a distribution system with
20 the aid of private industry."

21 SECTION 52. Section 67-16-12 NMSA 1978 (being Laws 1985,
22 Chapter 23, Section 12, as amended) is amended to read:

23 "67-16-12. FURTHER DUTIES OF DEPARTMENT.--

24 A. The department shall:

25 (1) serve as the coordinating agency between

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1 various industry and business organizations seeking to aid in
2 the anti-litter effort;

3 (2) cooperate with all local governments to
4 accomplish coordination of local anti-litter efforts;

5 (3) encourage voluntary local anti-litter
6 campaigns seeking to focus the attention of the public on
7 programs to control and remove litter;

8 (4) encourage voluntary recycling programs and
9 aid in identifying programs and available markets for recycled
10 materials;

11 (5) apply for funds available from any other
12 source for use in the administration of the Litter Control and
13 Beautification Act;

14 (6) adopt rules to enter into contracts for
15 making either direct or matching grants with other state
16 agencies, cities or counties or with an Indian nation, tribe or
17 pueblo government for the purpose of promoting local keep
18 America beautiful system programs; and

19 (7) aid in the adoption and enforcement of
20 model anti-litter statutes and ordinances and improve state and
21 local litter control programs.

22 B. The department shall also allocate funds
23 appropriated to it from the litter control and beautification
24 fund according to the following formula:

25 (1) no more than fifteen percent of the fees

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1 received in a year for directly related operating expenses
2 [~~directly related to the administration of the council~~],
3 including:

4 (a) research, development and
5 implementation of a statewide evaluation system;

6 (b) professional services provided to
7 the state by representatives of keep America beautiful,
8 incorporated; and

9 (c) the promotion of and encouragement
10 of private recycling efforts for all recyclable items;

11 (2) no more than twenty percent of the fees
12 received in a year to purchase litter bags and receptacles and
13 to conduct a public awareness and media campaign to include
14 brochures, literature and educational materials, production of
15 public service announcements and other expenses relating to
16 public relations;

17 (3) no more than fifty percent of the fees
18 received in a year to local governments to establish and help
19 continue local keep America beautiful system programs;

20 (4) no more than sixty percent of the fees
21 received in a year to local governments to establish a summer
22 youth employment program to aid in litter control and
23 beautification projects; and

24 (5) no more than ten percent of fees received
25 in a year to keep New Mexico beautiful, incorporated to further

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

1 beautification and educational programs."

2 SECTION 53. A new section of the New Mexico-Chihuahua
3 Commission Act is enacted to read:

4 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
5 REPEAL--NEW MEXICO-CHIHUAHUA COMMISSION.--The New Mexico-
6 Chihuahua commission is terminated on July 1, 2015 pursuant to
7 the provisions of the Sunset Act unless continued by law. The
8 provisions of the Sunset Act notwithstanding, there is no wind-
9 up period for the commission and the New Mexico-Chihuahua
10 Commission Act is repealed effective July 1, 2015."

11 SECTION 54. A new section of the New Mexico-Sonora
12 Commission Act is enacted to read:

13 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
14 REPEAL--NEW MEXICO-SONORA COMMISSION.--The New Mexico-Sonora
15 commission is terminated on July 1, 2015 pursuant to the
16 provisions of the Sunset Act unless continued by law. The
17 provisions of the Sunset Act notwithstanding, there is no wind-
18 up period for the commission and the New Mexico-Sonora
19 Commission Act is repealed effective July 1, 2015."

20 SECTION 55. A new section of Chapter 16, Article 16 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
23 REPEAL--STATE FAIR COMMISSION.--The state fair commission is
24 terminated on July 1, 2017 pursuant to the provisions of the
25 Sunset Act. The commission shall continue to operate according

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1 to the provisions of Chapter 16, Article 6 NMSA 1978 until July
 2 1, 2018. Effective July 1, 2018, the state fair commission is
 3 repealed."

4 SECTION 56. A new section of the Spaceport Development
 5 Act is enacted to read:

6 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
 7 REPEAL--SPACEPORT AUTHORITY.--The spaceport authority is
 8 terminated on July 1, 2017 pursuant to the provisions of the
 9 Sunset Act. The authority shall continue to operate according
 10 to the provisions of the Spaceport Development Act until July
 11 1, 2018. Effective July 1, 2018, the Spaceport Development Act
 12 is repealed; provided that no action of the legislature shall
 13 impair any outstanding bonds or the payments on those bonds."

14 SECTION 57. TEMPORARY PROVISION--TRANSFERS OF FUNCTIONS,
 15 APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY
 16 REFERENCES.--

17 A. On the effective date of this act, all
 18 functions, appropriations, money, records, furniture, equipment
 19 and other property of the economic development department, the
 20 tourism department and the border authority are transferred to
 21 the commerce department.

22 B. On the effective date of this act, all
 23 contractual obligations of the economic development department
 24 and the tourism department or any division or other subordinate
 25 unit of those departments and the border authority are binding

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1 on the commerce department.

2 C. On the effective date of this act, references in
3 the law to the economic development department or the tourism
4 department or any divisions or other subordinate units of those
5 departments or the border authority shall be deemed to be
6 references to the commerce department unless otherwise
7 specified by law.

8 D. The rules of the economic development
9 department, the tourism department and the border authority
10 shall be deemed to be rules of the commerce department until
11 amended or repealed by the commerce department.

12 E. On the effective date of this act, all
13 functions, appropriations, money, records, furniture, equipment
14 and other property of the New Mexico film museum are
15 transferred to the cultural affairs department. All
16 contractual obligations of the New Mexico film museum are
17 binding on the cultural affairs department. All references in
18 law to the museum or the board of trustees shall be deemed to
19 be references to the cultural affairs department.

20 **SECTION 58. RECOMPILATION.--**The compiler shall compile:

21 A. Sections 9-15-50 and 9-15-51 NMSA 1978 (being
22 Laws 2003, Chapter 166, Sections 3 and 4 and Laws 2003, Chapter
23 170, Sections 3 and 4, as amended) in Chapter 20, NMSA 1978;
24 and

25 B. Section 9-15-56 NMSA 1978 (being Laws 2010,

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1 Chapter 87, Section 1) into the Commerce Department Act.

2 SECTION 59. REPEAL.--

3 A. The Economic Development Department Act,
 4 Sections 9-15-1 through 9-15-41 and 9-15-52 through 9-15-55
 5 NMSA 1978 (being Laws 1983, Chapter 297, Sections 1 through 4,
 6 Laws 2003, Chapter 97, Section 1, Laws 1983, Chapter 297,
 7 Sections 5 through 7, Laws 1983, Chapter 296, Section 21, Laws
 8 1983, Chapter 297, Section 10, Laws 1988, Chapter 81, Section
 9 5, Laws 1983, Chapter 297, Sections 12, 14 and 15, Laws 1991,
 10 Chapter 21, Sections 21 through 24, Laws 1994, Chapter 113,
 11 Section 2, Laws 1988, Chapter 80, Sections 3 and 4, Laws 2005,
 12 Chapter 57, Section 1, Laws 1988, Chapter 80, Section 5, Laws
 13 1989, Chapter 205, Sections 1 through 3, Laws 2005, Chapter 67,
 14 Section 1, Laws 1991, Chapter 27, Sections 1 and 2, Laws 1993,
 15 Chapter 211, Sections 1 through 5 and also Laws 1993, Chapter
 16 216, Sections 1 through 5 and Laws 2007, Chapter 180, Sections
 17 1 through 4, as amended) is repealed.

18 B. The Tourism Department Act, Sections 9-15A-1
 19 through 9-15A-11 NMSA 1978 (being Laws 1991, Chapter 21,
 20 Sections 1 through 4, Laws 2003, Chapter 299, Section 1, Laws
 21 1991, Chapter 21, Sections 5 through 7, Laws 1996, Chapter 25,
 22 Section 1, Laws 1993, Chapter 101, Sections 10 and 11, Laws
 23 2007, Chapter 286, Sections 2 and 3 and Laws 2007, Chapter 287,
 24 Sections 2 and 3, as amended) is repealed.

25 C. The Intertribal Ceremonial Act, Sections 9-15C-1

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1 through 9-15C-5 NMSA 1978 (being Laws 2005, Chapter 219,
2 Sections 1 through 5, as amended) is repealed.

3 D. The Small Business Regulatory Relief Act,
4 Sections 14-4A-1 through 14-4A-6 NMSA 1978 (being Laws 2005,
5 Chapter 244, Sections 1 through 6) is repealed.

6 E. The New Mexico Film Museum Act, Sections 18-14-1
7 through 18-14-6 NMSA 1978 (being Laws 2003, Chapter 250,
8 Sections 1 through 6, as amended) is repealed.

9 F. The Border Development Act, Sections 58-27-1
10 through 58-27-26 NMSA 1978 (being Laws 1991, Chapter 131,
11 Sections 1 through 10 and 12 through 16, Laws 1993, Chapter
12 335, Section 4, Laws 1995, Chapter 192, Section 10, Laws 1991,
13 Chapter 131, Sections 17 through 25 and Laws 1995, Chapter 192,
14 Section 21, as amended) is repealed.

15 G. The litter control council, Section 67-16-4 NMSA
16 1978 (being Laws 1985, Chapter 23, Section 4, as amended) is
17 repealed.

18 SECTION 60. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2012.