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SENATE BILL 235

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

INTRODUCED BY

Bernadette M. Sanchez

FOR THE ECONOMIC AND RURAL DEVELOPMENT COMMITTEE

AN ACT

RELATING TO RULEMAKING; REQUIRING STATE AGENCIES TO CITE
SPECIFIC STATUTORY AUTHORITY FOR RULES THEY PROPOSE TO ENACT.

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

SECTION 1. Section 8-8-4 NMSA 1978 (being Laws 1998,
Chapter 108, Section 4) is amended to read:

"8-8-4. COMMISSION--GENERAL POWERS AND DUTIES.--

A. The commission shall administer and enforce the
laws with which it is charged and has every power conferred by
law.

B. The commission may:

(1) subject to legislative appropriation,
appoint and employ such professional, technical and clerical
assistance as it deems necessary to assist it in performing its
powers and duties;

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1 (2) delegate authority to subordinates as it
2 deems necessary and appropriate, clearly delineating such
3 delegated authority and any limitations;

4 (3) retain competent attorneys to handle the
5 legal matters of the commission and give advice and counsel in
6 regard to any matter connected with the duties of the
7 commission and, in the discretion of the commission, to
8 represent the commission in any legal proceeding;

9 (4) organize into organizational units as
10 necessary to enable it to function most efficiently, subject to
11 provisions of law requiring or establishing specific
12 organizational units;

13 (5) take administrative action by issuing
14 orders not inconsistent with law to assure implementation of
15 and compliance with the provisions of law for which the
16 commission is responsible and to enforce those orders by
17 appropriate administrative action and court proceedings;

18 (6) conduct research and studies to improve
19 the commission's operations or the provision of services to the
20 citizens of New Mexico;

21 (7) conduct investigations as necessary to
22 carry out the commission's responsibilities;

23 (8) apply for and accept grants and donations
24 in the name of the state to carry out its powers and duties;

25 (9) enter into contracts to carry out its

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1 powers and duties;

2 (10) adopt such reasonable [~~administrative~~
3 ~~regulatory and~~] procedural rules as may be necessary [~~or~~
4 ~~appropriate~~] to carry out [~~its powers and duties~~] the
5 provisions of the Public Regulation Commission Act. For any
6 other rule promulgated, adopted or amended, the commission
7 shall cite the specific statutory provisions warranting the
8 rule;

9 (11) adopt a rule only upon specific statutory
10 authorization regarding the content of the rule;

11 [~~(11)~~] (12) cooperate with tribal and pueblo
12 governments on topics over which the commission and the other
13 governments have jurisdiction and conduct joint investigations,
14 hold joint hearings and issue joint or concurrent orders as
15 appropriate; and

16 [~~(12)~~] (13) apply to the district court for
17 injunctions to prevent violations of any laws that it
18 administers or rules or orders adopted pursuant to those laws.

19 C. The commission shall:

20 (1) prepare an annual budget for submission to
21 the legislature;

22 (2) provide for surety bond coverage for all
23 employees of the commission as provided in the Surety Bond Act
24 and pay the costs of such bonds;

25 (3) adopt rules to streamline the resolution

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1 of cases before it when appropriate by:

- 2 (a) the use of hearing examiners;
- 3 (b) the taking of evidence with the
- 4 least delay practicable;
- 5 (c) limiting repetitious testimony; and
- 6 (d) adopting procedures for resolving
- 7 cases in ways other than by trial-type hearings when
- 8 appropriate, including consent calendars, conferences,
- 9 settlements, mediation, arbitration and other alternative
- 10 dispute resolution methods and the use of staff decisions; and
- 11 (4) provide a toll-free telephone number and
- 12 publish it and the commission's general telephone number in
- 13 local telephone directories.

14 D. A majority of the commission constitutes a

15 quorum for the transaction of business; provided, however, that

16 a majority vote of the commission is needed for a final

17 decision of the commission."

18 SECTION 2. Section 9-1-5 NMSA 1978 (being Laws 1977,

19 Chapter 248, Section 5) is amended to read:

20 "9-1-5. SECRETARY--DUTIES AND GENERAL POWERS.--

21 A. The secretary is responsible to the governor for

22 the operation of the department. It is [~~his~~] the secretary's

23 duty to manage all operations of the department and to

24 administer and enforce the laws with which [~~he~~] the secretary

25 or the department is charged.

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1 B. To perform [~~his~~] the secretary's duties, the
2 secretary has every power expressly enumerated in the laws,
3 whether granted to the secretary or the department or any
4 division of the department, except where authority conferred
5 upon any division [~~therein~~] is explicitly exempted from the
6 secretary's authority by statute. In accordance with these
7 provisions, the secretary shall:

8 (1) except as otherwise provided in [~~this~~] the
9 Executive Reorganization Act, exercise general supervisory and
10 appointing authority over all department employees, subject to
11 any applicable personnel laws and [~~regulations~~] rules;

12 (2) delegate authority to subordinates as [~~he~~]
13 the secretary deems necessary and appropriate, clearly
14 delineating such delegated authority and the limitations
15 thereto;

16 (3) organize the department into those
17 organizational units [~~he~~] that the secretary deems will enable
18 it to function most efficiently, subject to any provisions of
19 law requiring or establishing specific organizational units;

20 (4) within the limitations of available
21 appropriations and applicable laws, employ and fix the
22 compensation of those persons necessary to discharge [~~his~~] the
23 secretary's duties;

24 (5) take administrative action by issuing
25 orders and instructions, not inconsistent with the law, to

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1 assure implementation of and compliance with the provisions of
2 law ~~[with the]~~ for whose administration or execution ~~[of which~~
3 ~~he]~~ the secretary is responsible and to enforce those orders
4 and instructions by appropriate administrative action or
5 actions in the courts;

6 (6) conduct research and studies that will
7 improve the operations of the department and the provision of
8 services to the citizens of the state;

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

14 (8) prepare an annual budget of the
15 department;

16 (9) provide cooperation, at the request of
17 heads of administratively attached agencies and adjunct
18 agencies, in order to:

19 (a) minimize or eliminate duplication of
20 services and jurisdictional conflicts;

21 (b) coordinate activities and resolve
22 problems of mutual concern; and

23 (c) resolve by agreement the manner and
24 extent to which the department shall provide budgeting,
25 recordkeeping and related clerical assistance to

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1 administratively attached agencies; and

2 (10) appoint, with the governor's consent, a
3 "director" for each division [~~a "director"~~]. These appointed
4 positions are exempt from the provisions of the Personnel Act.
5 Persons appointed to these positions shall serve at the
6 pleasure of the secretary.

7 [~~(11) give bond in the penal sum of twenty-~~
8 ~~five thousand dollars (\$25,000) and require directors to each~~
9 ~~give bond in the penal sum of ten thousand dollars (\$10,000)~~
10 ~~conditioned upon the faithful performance of duties, as~~
11 ~~provided in the Surety Bond Act. The department shall pay the~~
12 ~~costs of such bonds; and~~

13 [~~(12) require performance bonds of such~~
14 ~~department employees and officers as he deems necessary, as~~
15 ~~provided in the Surety Bond Act. The department shall pay the~~
16 ~~costs of such bonds.]~~

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

22 D. Where functions of departments overlap or a
23 function assigned to one department could better be performed
24 by another department, a secretary may recommend appropriate
25 legislation to the next session of the legislature for its

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1 approval.

2 E. The secretary may make and adopt such reasonable
3 [~~and~~] procedural rules [~~and regulations~~] as may be necessary to
4 carry out the [~~duties of the department and its divisions~~]
5 provisions of the act creating the department headed by the
6 secretary. For any other rule promulgated, adopted or amended,
7 the secretary shall cite the specific statutory provisions
8 warranting the rule. The secretary may adopt a rule only upon
9 specific statutory authorization regarding the content of the
10 rule. Statutory language granting rulemaking authority or
11 generally describing the powers and functions of an agency
12 shall not be construed to extend further than implementing or
13 interpreting the specific powers and duties conferred by the
14 enabling statute. No rule [~~or regulation~~] promulgated by the
15 director of any division in carrying out the functions and
16 duties of the division shall be effective until approved by the
17 secretary unless otherwise provided by statute. Unless
18 otherwise provided by statute, no [~~regulation~~] rule affecting
19 any person or agency outside the department shall be adopted,
20 amended or repealed without a public hearing on the proposed
21 action before the secretary or a hearing officer designated by
22 [~~him~~] the secretary. The public hearing shall be held in Santa
23 Fe unless otherwise permitted by statute. Notice of the
24 subject matter of the [~~regulation~~] rule, the action proposed to
25 be taken, the time and place of the hearing, the manner in

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

10 F. If this section conflicts with the powers and
11 duties specifically given by statute to a particular secretary,
12 the specific powers and duties shall control. If this section
13 conflicts with other statutes specifically limiting the powers
14 of a secretary, the specific limitations shall control."

15 SECTION 3. Section 9-2A-7 NMSA 1978 (being Laws 1992,
16 Chapter 57, Section 7, as amended) is amended to read:

17 "9-2A-7. SECRETARY--DUTIES AND GENERAL POWERS.--

18 A. The secretary is responsible to the governor for
19 the operation of the department. It is the secretary's duty to
20 manage all operations of the department and to administer and
21 enforce the laws with which [~~he~~] the secretary or the
22 department is charged.

23 B. To perform [~~his~~] the secretary's duties, the
24 secretary has every power expressly enumerated in the law,
25 whether granted to the secretary, the department or any

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1 division of the department, except when any division is
2 explicitly exempted from the secretary's power by statute. In
3 accordance with these provisions, the secretary shall:

4 (1) except as otherwise provided in the
5 Children, Youth and Families Department Act, exercise general
6 supervisory and appointing power over all department employees,
7 subject to applicable personnel laws and [~~regulations~~] rules;

8 (2) delegate power to subordinates as [~~he~~] the
9 secretary deems necessary and appropriate, clearly delineating
10 such delegated power and the limitations to that power;

11 (3) organize the department into
12 organizational units as necessary to enable it to function most
13 efficiently, subject to any provisions of law requiring or
14 establishing specific organizational units;

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

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

25 (6) conduct research and studies that will

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1 improve the operation of the department and the provision of
2 services to the citizens of the state;

3 (7) provide courses of instruction and
4 practical training for employees of the department and other
5 persons involved in the administration of programs with the
6 objectives of improving the operations and efficiency of
7 administration and of promoting comprehensive, coordinated,
8 culturally sensitive services that address the whole child;

9 (8) prepare an annual budget for the
10 department; and

11 (9) provide cooperation, at the request of
12 administratively attached agencies and adjunct agencies, in
13 order to:

14 (a) minimize or eliminate duplication of
15 services and jurisdictional conflicts;

16 (b) coordinate activities and resolve
17 problems of mutual concern; and

18 (c) resolve by agreement the manner and
19 extent to which the department shall provide budgeting,
20 recordkeeping and related clerical assistance to
21 administratively attached agencies. [~~and~~

22 ~~(10) provide for surety bond coverage for all~~
23 ~~employees of the department as provided in the Surety Bond Act.~~
24 ~~The department shall pay the costs of such bonds.]~~

25 C. The secretary may apply for and receive, with

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1 the governor's approval, in the name of the department, any
2 public or private funds, including United States government
3 funds, available to the department to carry out its programs,
4 duties or services.

5 D. The secretary may make and adopt such reasonable
6 [~~and~~] procedural rules [~~and regulations~~] as may be necessary to
7 carry out the [~~duties of the department and its divisions~~]
8 provisions of the Children, Youth and Families Department Act.
9 For any other rule promulgated, adopted or amended, the
10 secretary shall cite the specific statutory provisions
11 warranting the rule. The secretary may adopt a rule only upon
12 specific statutory authorization regarding the content of the
13 rule. No rule [~~or regulation~~] promulgated by the director of
14 any division in carrying out the functions and duties of the
15 division shall be effective until approved by the secretary.
16 Unless otherwise provided by statute, no [~~regulation~~] rule
17 affecting any person or agency outside the department shall be
18 adopted, amended or repealed without a public hearing on the
19 proposed action before the secretary or a hearing officer
20 designated by the secretary. The public hearing shall be held
21 in Santa Fe unless otherwise permitted by statute. Notice of
22 the subject matter of the [~~regulation~~] rule, the action
23 proposed to be taken, the time and place of the hearing, the
24 manner in which interested persons may present their views and
25 the method by which copies of the proposed [~~regulation~~] rule or

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1 proposed amendment or repeal of an existing [~~regulation~~] rule
2 may be obtained shall be published once at least thirty days
3 prior to the hearing date in a newspaper of general circulation
4 and mailed at least thirty days prior to the hearing date to
5 all persons who have made a written request for advance notice
6 of hearing. All rules [~~and regulations~~] shall be filed in
7 accordance with the State Rules Act.

8 E. If the secretary certifies to the secretary of
9 finance and administration and gives contemporaneous notice of
10 such certification through the human services register that the
11 department has insufficient state funds to operate any of the
12 programs it administers and that reductions in services or
13 benefit levels are necessary, the secretary may engage in
14 interim rulemaking. Notwithstanding any provision to the
15 contrary in the State Rules Act, interim rulemaking shall be
16 conducted pursuant to Subsection D of this section, except:

17 (1) the period of notice of public hearing
18 shall be fifteen days;

19 (2) the department shall send individual
20 notices of the interim rulemaking and of the public hearing to
21 affected providers and beneficiaries;

22 (3) rules [~~and regulations~~] promulgated
23 [~~under~~] pursuant to the provisions of this subsection shall be
24 in effect not less than five days after the public hearing;

25 (4) rules [~~and regulations~~] promulgated under

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1 this subsection shall not be in effect for more than ninety
2 days; and

3 (5) if final rules [~~and regulations~~] are
4 necessary to replace the interim rules [~~and regulations~~], the
5 department shall give notice of intent to promulgate final
6 rules [~~and regulations~~] at the time of notice herein. The
7 final rules [~~and regulations~~] shall be promulgated not more
8 than forty-five days after the public hearing and filed in
9 accordance with the State Rules Act."

10 SECTION 4. Section 9-3-5 NMSA 1978 (being Laws 1977,
11 Chapter 257, Section 6, as amended) is amended to read:

12 "9-3-5. SECRETARY--DUTIES AND GENERAL POWERS.--

13 A. The secretary of corrections is responsible to
14 the governor for the operation of the corrections department.
15 It is [~~his~~] the secretary's duty to manage all operations of
16 the department and to administer and enforce the laws with
17 which [~~he~~] the secretary or the department is charged.

18 B. To perform [~~his~~] the secretary's duties, the
19 secretary has every power expressly enumerated in the laws,
20 whether granted to the secretary of the department or any
21 division of the department, except where authority conferred
22 upon any division is explicitly exempted from the secretary's
23 authority by statute. In accordance with these provisions, the
24 secretary shall:

25 (1) except as otherwise provided in the

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1 Corrections Department Act, exercise general supervisory and
2 appointing authority over all department employees, subject to
3 any applicable personnel laws and [~~regulations~~] rules;

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

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

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

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

22 (6) conduct research and studies that will
23 improve the operations of the department and the provision of
24 services to the citizens of the state;

25 (7) provide courses of instruction and

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1 practical training for employees of the department and other
2 persons involved in the administration of programs with the
3 objective of improving the operations and efficiency of
4 administration;

5 (8) prepare an annual budget of the
6 department;

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

9 (a) minimize or eliminate duplication of
10 services and jurisdictional conflicts;

11 (b) coordinate activities and resolve
12 problems of mutual concern; and

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

17 (10) appoint, with the governor's consent, a
18 "director" for each division. These appointed positions are
19 exempt from the provisions of the Personnel Act. Persons
20 appointed to these positions shall serve at the pleasure of the
21 secretary.

22 ~~[(11) give bond as provided in the Surety Bond~~
23 ~~Act. The department shall pay the costs of the bonds; and~~

24 ~~(12) require performance bonds of such~~
25 ~~department employees and officers as he deems necessary, as~~

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1 ~~provided in the Surety Bond Act. The department shall pay the~~
2 ~~costs of the bonds.]~~

3 C. The secretary may apply for and receive, with
4 the governor's approval, in the name of the department any
5 public or private funds, including United States government
6 funds, available to the department to carry out its programs,
7 duties or services.

8 D. Where functions of departments overlap or a
9 function assigned to one department could better be performed
10 by another department, [~~a~~] the secretary may recommend
11 appropriate legislation to the next session of the legislature
12 for its approval.

13 E. The secretary may make and adopt such reasonable
14 [~~and~~] procedural rules [~~and regulations~~] as may be necessary to
15 carry out the [~~duties of the department and its divisions~~]
16 provisions of the Corrections Department Act. For any other
17 rule promulgated, adopted or amended, the secretary shall cite
18 the specific statutory provisions warranting the rule. The
19 secretary may adopt a rule only upon specific statutory
20 authorization regarding the content of the rule. No rule [~~or~~
21 regulation] promulgated by the director of any division in
22 carrying out the functions and duties of the division shall be
23 effective until approved by the secretary. Unless otherwise
24 provided by statute, no [~~regulation~~] rule affecting any person
25 or agency outside the department shall be adopted, amended or

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1 repealed without a public hearing on the proposed action before
2 the secretary or a hearing officer designated by ~~[him]~~ the
3 secretary. The public hearing shall be held in Santa Fe unless
4 otherwise permitted by statute. Notice of the subject matter
5 of the ~~[regulation]~~ rule, the action proposed to be taken, the
6 time and place of the hearing, the manner in which interested
7 persons may present their views and the method by which copies
8 of the proposed ~~[regulation]~~ rule or proposed amendment or
9 repeal of an existing ~~[regulation]~~ rule may be obtained shall
10 be published once at least thirty days prior to the hearing
11 date in a newspaper of general circulation and mailed at least
12 thirty days prior to the hearing date to all persons who have
13 made a written request for advance notice of hearing. All
14 rules ~~[and regulations]~~ shall be filed in accordance with the
15 State Rules Act.

16 F. Behavioral health services, including mental
17 health and substance abuse services, provided by the department
18 for persons under the department's supervision shall be in
19 compliance with the requirements of Section 9-7-6.4 NMSA 1978."

20 SECTION 5. Section 9-4A-6 NMSA 1978 (being Laws 2004,
21 Chapter 25, Section 6, as amended) is amended to read:

22 "9-4A-6. SECRETARY--DUTIES AND GENERAL POWERS.--

23 A. The secretary is responsible to the governor for
24 the operation of the department. It is the secretary's duty to
25 manage all operations of the department and to administer and

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1 enforce the laws with which the secretary or the department is
2 charged.

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

10 (1) except as otherwise provided in the
11 Cultural Affairs Department Act, exercise general supervisory
12 and appointing authority over all department employees, subject
13 to any applicable personnel laws and rules;

14 (2) delegate authority to subordinates as the
15 secretary deems necessary and appropriate, clearly delineating
16 such delegated authority and the limitations thereto;

17 (3) organize the department into those
18 organizational units the secretary deems will enable it to
19 function most efficiently, subject to any provisions of law
20 requiring or establishing specific organizational units;

21 (4) within the limitations of available
22 appropriations and applicable laws, employ and fix the
23 compensation of those persons necessary to discharge the
24 secretary's duties;

25 (5) take administrative action by issuing

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1 orders and instructions, not inconsistent with the law, to
2 ensure implementation of and compliance with the provisions of
3 law for whose administration or execution the secretary is
4 responsible, and to enforce those orders and instructions by
5 appropriate administrative action or actions in the courts;

6 (6) conduct research and studies that will
7 improve the operations of the department and the provision of
8 services to the citizens of the state;

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

14 (8) prepare an annual budget of the
15 department;

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

18 (a) minimize or eliminate duplication of
19 services and jurisdictional conflicts;

20 (b) coordinate activities and resolve
21 problems of mutual concern; and

22 (c) resolve by agreement the manner and
23 extent to which the department shall provide budgeting,
24 recordkeeping and related clerical assistance to
25 administratively attached agencies; and

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1 (10) appoint, with the governor's consent, for
2 each division, a "director". These appointed positions are
3 exempt from the provisions of the Personnel Act. Persons
4 appointed to these positions shall serve at the pleasure of the
5 secretary.

6 C. The secretary may:

7 (1) apply for and receive, with the
8 governor's approval, in the name of the department, any public
9 or private funds, including United States government funds,
10 available to the department to carry out its programs, duties
11 or services; and

12 (2) acquire by purchase, gift, endowment or
13 legacy real or personal property and hold title to that
14 property in the name of the department for the purpose of
15 promoting, encouraging and supporting the performing arts in
16 New Mexico. Property acquired pursuant to this paragraph shall
17 be held under the control and authority of the [~~cultural~~
18 ~~affairs~~] department.

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

24 E. The secretary may make and adopt such
25 reasonable procedural rules as may be necessary to carry out

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1 the ~~[duties of the department and its divisions]~~ provisions
2 of the Cultural Affairs Department Act. For any other rule
3 promulgated, adopted or amended, the secretary shall cite the
4 specific statutory provisions warranting the rule. The
5 secretary may adopt a rule only upon specific statutory
6 authorization regarding the content of the rule. A rule
7 promulgated by the director of a division in carrying out the
8 functions and duties of the division shall not be effective
9 until approved by the secretary. Unless otherwise provided
10 by statute, a rule affecting a person or agency outside the
11 department shall not be adopted, amended or repealed without
12 a public hearing on the proposed action before the secretary
13 or a hearing officer designated by the secretary. The public
14 hearing shall be held in Santa Fe unless otherwise permitted
15 by statute. Notice of the subject matter of the rule, the
16 action proposed to be taken, the time and place of the
17 hearing, the manner in which interested persons may present
18 their views and the method by which copies of the proposed
19 rule or proposed amendment or repeal of an existing rule may
20 be obtained shall be published once at least thirty days
21 prior to the hearing date in a newspaper of general
22 circulation and mailed at least thirty days prior to the
23 hearing date to all persons who have made a written request
24 for advance notice of hearing. All rules shall be filed in
25 accordance with the State Rules Act."

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1 SECTION 6. Section 9-6-5 NMSA 1978 (being Laws 1977,
2 Chapter 247, Section 5, as amended) is amended to read:

3 "9-6-5. SECRETARY--DUTIES AND GENERAL POWERS.--

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

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

17 (1) except as otherwise provided in the
18 Department of Finance and Administration Act, exercise
19 general supervisory and appointing authority over all
20 department employees, subject to any applicable personnel
21 laws and [~~regulations~~] rules;

22 (2) delegate authority to subordinates as
23 [~~he~~] the secretary deems necessary and appropriate, clearly
24 delineating such delegated authority and the limitations
25 thereto;

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

6 (4) within the limitations of available
7 appropriations and applicable laws, employ and fix the
8 compensation of those persons necessary to discharge [~~his~~]
9 the secretary's duties;

10 (5) take administrative action by issuing
11 orders and instructions, not inconsistent with the law, to
12 assure implementation of and compliance with the provisions
13 of law with the administration or execution of which [~~he~~] the
14 secretary is responsible, and to enforce those orders and
15 instructions by appropriate administrative action or actions
16 in the courts;

17 (6) conduct research and studies that will
18 improve the operations of the department and the provision of
19 services to the citizens of the state;

20 (7) provide courses of instruction and
21 practical training for employees of the department and other
22 persons involved in the administration of programs with the
23 objective of improving the operations and efficiency of
24 administration;

25 (8) prepare an annual budget of the

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1 department;

2 (9) provide cooperation, at the request of
3 heads of administratively attached agencies and adjunct
4 agencies, in order to:

5 (a) minimize or eliminate duplication
6 of services and jurisdictional conflicts;

7 (b) coordinate activities and resolve
8 problems of mutual concern; and

9 (c) resolve by agreement the manner
10 and extent to which the department shall provide budgeting,
11 recordkeeping and related clerical assistance to
12 administratively attached agencies;

13 (10) appoint, with the governor's consent,
14 one "deputy secretary", and, for each division and office, a
15 "director". These appointed positions are exempt from the
16 provisions of the Personnel Act. Persons appointed to these
17 positions shall serve at the pleasure of the secretary; and

18 (11) serve as, or designate the deputy
19 secretary to serve as, executive officer of the state board
20 of finance.

21 [~~(12) give bond as provided in the Surety~~
22 ~~Bond Act. The department shall pay the cost of such bond;~~
23 ~~and~~

24 ~~(13) require faithful performance or other~~
25 ~~fidelity bonds of such department employees and officers as~~

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1 ~~he deems necessary, as provided in the Surety Bond Act. The~~
2 ~~department shall pay the costs of such bonds.]~~

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

8 D. Where functions of departments overlap, or a
9 function assigned to one department could ~~[better]~~ be
10 performed better by another department, ~~[a]~~ the secretary may
11 recommend appropriate legislation to the next session of the
12 legislature for its approval.

13 E. The secretary may make and adopt such
14 reasonable ~~[administrative and]~~ procedural rules ~~[and~~
15 ~~regulations]~~ as may be necessary to carry out the ~~[duties of~~
16 ~~the department and its divisions]~~ provisions of the
17 Department of Finance and Administration Act. For any other
18 rule promulgated, adopted or amended, the secretary shall
19 cite the specific statutory provisions warranting the rule.
20 The secretary may adopt a rule only upon specific statutory
21 authorization regarding the content of the rule. No rule ~~[or~~
22 ~~regulation]~~ promulgated by the director of any division or
23 office in carrying out the functions and duties of the
24 division or office shall be effective until approved by the
25 secretary unless otherwise provided by statute. Unless

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

19 SECTION 7. Section 9-7-6 NMSA 1978 (being Laws 1977,
20 Chapter 253, Section 7, as amended) is amended to read:

21 "9-7-6. SECRETARY--DUTIES AND GENERAL POWERS.--

22 A. The secretary is responsible to the governor
23 for the operation of the department. It is ~~[his]~~ the
24 secretary's duty to manage all operations of the department
25 and to administer and enforce the laws with which ~~[he]~~ the

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1 secretary or the department is charged.

2 B. To perform [~~his~~] the secretary's duties, the
3 secretary has every power expressly enumerated in the laws,
4 whether granted to the secretary or the department or any
5 division of the department, except where authority conferred
6 upon any division is explicitly exempted from the secretary's
7 authority by statute. In accordance with these provisions,
8 the secretary shall:

9 (1) except as otherwise provided in the
10 Department of Health Act, exercise general supervisory and
11 appointing authority over all department employees, subject
12 to any applicable personnel laws and [~~regulations~~] rules;

13 (2) delegate authority to subordinates as
14 [~~he~~] the secretary deems necessary and appropriate, clearly
15 delineating such delegated authority and the limitations
16 thereto;

17 (3) organize the department into those
18 organizational units [~~he~~] that the secretary deems will
19 enable it to function most efficiently, subject to any
20 provisions of law requiring or establishing specific
21 organizational units;

22 (4) within the limitations of available
23 appropriations and applicable laws, employ and fix the
24 compensation of those persons necessary to discharge [~~his~~]
25 the secretary's duties;

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

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

11 (7) conduct quality assurance and quality
12 improvement activities;

13 (8) provide 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 (9) prepare an annual budget of the
19 department; and

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

25 [~~(11) give bond in the penal sum of twenty-~~

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1 ~~five thousand dollars (\$25,000) and require directors to each~~
2 ~~give bond in the penal sum of ten thousand dollars (\$10,000)~~
3 ~~conditioned upon the faithful performance of duties, as~~
4 ~~provided in the Surety Bond Act. The department shall pay~~
5 ~~the costs of those bonds; and~~

6 ~~(12) require performance bonds of such~~
7 ~~department employees and officers as he deems necessary, as~~
8 ~~provided in the Surety Bond Act. The department shall pay~~
9 ~~the costs of those bonds.]~~

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

15 D. The secretary shall be responsible for
16 providing appropriate educational programs for all school-age
17 persons, as defined in Section 22-1-2 NMSA 1978, who are
18 clients, as defined in Section 43-1-3 NMSA 1978, of
19 institutions under [~~his~~] the secretary's authority as
20 follows:

21 (1) [~~he~~] the secretary shall arrange with
22 school districts for the enrollment of all school-age
23 residents of institutions under [~~his~~] the secretary's
24 authority who have been evaluated and recommended for
25 placement in a public school according to the provisions of

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1 the Department of Health Education Act. [~~He~~] The secretary
2 shall notify the [~~superintendent of public instruction~~]
3 secretary of public education prior to public school
4 enrollment of any school-age resident under [~~his~~] the
5 secretary's of health's authority; and

6 (2) [~~he~~] the secretary shall provide
7 educational programs, in accordance with the special
8 education rules of the [~~state board of~~] public education
9 department, for school-age persons who are clients of
10 institutions under [~~his~~] the secretary's authority but who
11 are enrolled in a public school by:

12 (a) using the facilities and personnel
13 of the department;

14 (b) contracting with a school district
15 for the provision of educational services; or

16 (c) using a combination of
17 Subparagraphs (a) and (b) of this paragraph.

18 E. The secretary may make and adopt such
19 reasonable [~~and~~] procedural rules as may be necessary to
20 carry out the [~~duties of the department and its divisions~~]
21 provisions of the Department of Health Act. For any other
22 rule promulgated, adopted or amended, the secretary shall
23 cite the specific statutory provisions warranting the rule.
24 The secretary may adopt a rule only upon specific statutory
25 authorization regarding the content of the rule. No rule

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

21 **SECTION 8.** Section 9-7A-6 NMSA 1978 (being Laws 1991,
22 Chapter 25, Section 6) is amended to read:

23 "9-7A-6. SECRETARY--DUTIES AND GENERAL POWERS.--

24 A. The secretary is responsible to the governor
25 for the operation of the department. It is ~~[his]~~ the

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1 secretary's duty to manage all operations of the department
2 and to administer and enforce the laws with which [~~he~~] the
3 secretary or the department is charged.

4 B. To perform [~~his~~] the secretary's duties, the
5 secretary has every power expressly enumerated in the laws,
6 whether granted to the secretary, the department or any
7 division of the department, except where authority conferred
8 upon any division is explicitly exempt from the secretary's
9 authority by statute. In accordance with these provisions,
10 the secretary shall:

11 (1) except as otherwise provided in the
12 Department of Environment Act, exercise general supervisory
13 and appointing authority over all department employees,
14 subject to any applicable personnel laws and [~~regulations~~]
15 rules;

16 (2) delegate authority to subordinates as
17 [~~he~~] the secretary deems necessary and appropriate, clearly
18 delineating that delegated authority and the limitations
19 thereto;

20 (3) organize the department into those
21 organizational units [~~he~~] that the secretary deems will
22 enable it to function most efficiently, subject to any
23 provisions of law requiring or establishing specific
24 organizational units;

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 [~~his~~]
3 the 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
7 of law for which administration or execution [~~he~~] the
8 secretary is responsible and to enforce those orders and
9 instructions by either appropriate administrative action or
10 actions in the courts;

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

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

19 (8) prepare an annual budget of the
20 department; and

21 (9) appoint, with the governor's consent, a
22 "director" for each division. These appointed positions are
23 exempt from the provisions of the Personnel Act. Persons
24 appointed to these positions shall serve at the pleasure of
25 the secretary.

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1 [~~(10)~~ give bond in the penal sum of twenty-
2 five thousand dollars (~~\$25,000~~) and require directors to each
3 give bond in the penal sum of ten thousand dollars (~~\$10,000~~)
4 conditioned upon the faithful performance of duties, as
5 provided in the Surety Bond Act. The department shall pay
6 the costs of those bonds; and

7 ~~(11) require performance bonds of department~~
8 ~~employees and officers as he deems necessary, as provided in~~
9 ~~the Surety Bond Act. The department shall pay the costs of~~
10 ~~those bonds.]~~

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

16 D. The secretary may make and adopt such
17 reasonable [~~and~~] procedural rules [~~and regulations~~] as may be
18 necessary to carry out the [~~duties of the department and its~~
19 ~~divisions~~] provisions of the Department of Environment Act.
20 For any other rule promulgated, adopted or amended, the
21 secretary shall cite the specific statutory provisions
22 warranting the rule. The secretary may adopt a rule only
23 upon specific statutory authorization regarding the content
24 of the rule. No rule [~~or regulation~~] promulgated by the
25 director of any division in carrying out the functions and

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

21 SECTION 9. Section 9-8-6 NMSA 1978 (being Laws 1977,
22 Chapter 252, Section 7, as amended) is amended to read:

23 "9-8-6. SECRETARY--DUTIES AND GENERAL POWERS.--

24 A. The secretary is responsible to the governor
25 for the operation of the department. It is [~~his~~] the

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1 secretary's duty to manage all operations of the department
2 and to administer and enforce the laws with which [~~he~~] the
3 secretary or the department is charged.

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

11 (1) except as otherwise provided in the
12 Human Services Department Act, exercise general supervisory
13 and appointing authority over all department employees,
14 subject to any applicable personnel laws and [~~regulations~~]
15 rules;

16 (2) delegate authority to subordinates as
17 [~~he~~] the secretary deems necessary and appropriate, clearly
18 delineating such delegated authority and the limitations
19 thereto;

20 (3) organize the department into those
21 organizational units [~~he~~] that the secretary deems will
22 enable it to function most efficiently, subject to any
23 provisions of law requiring or establishing specific
24 organizational units;

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 [~~his~~]
3 the 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
7 of law for whose administration or execution [~~he~~] the
8 secretary is responsible and to enforce those orders and
9 instructions by appropriate administrative action in the
10 courts;

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

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

19 (8) prepare an annual budget of the
20 department;

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

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

25 (b) coordinate activities and resolve

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1 problems of mutual concern; and

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

6 (10) appoint, with the governor's consent, a
7 "director" for each division. These appointed positions are
8 exempt from the provisions of the Personnel Act. Persons
9 appointed to these positions shall serve at the pleasure of
10 the secretary, except as provided in Section 9-8-9 NMSA 1978.

11 ~~[(11) give bond in the penal sum of twenty-~~
12 ~~five thousand dollars (\$25,000) and require directors to each~~
13 ~~give bond in the penal sum of ten thousand dollars (\$10,000)~~
14 ~~conditioned upon the faithful performance of duties as~~
15 ~~provided in the Surety Bond Act. The department shall pay~~
16 ~~the costs of these bonds; and~~

17 ~~(12) require performance bonds of such~~
18 ~~department employees and officers as he deems necessary as~~
19 ~~provided in the Surety Bond Act. The department shall pay~~
20 ~~the costs of these bonds.]~~

21 C. The secretary may apply for and receive, with
22 the governor's approval, in the name of the department, any
23 public or private funds, including United States government
24 funds, available to the department to carry out its programs,
25 duties or services.

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1 D. Where functions of departments overlap or a
2 function assigned to one department could better be performed
3 by another department, the secretary may recommend
4 appropriate legislation to the next session of the
5 legislature for its approval.

6 E. The secretary may make and adopt such
7 reasonable [~~and~~] procedural rules [~~and regulations~~] as may be
8 necessary to carry out the [~~duties of the department and its~~
9 ~~divisions~~] provisions of the Human Services Department Act.
10 For any other rule promulgated, adopted or amended, the
11 secretary shall cite the specific statutory provisions
12 warranting the rule. The secretary may adopt a rule only
13 upon specific statutory authorization regarding the content
14 of the rule. No rule [~~or regulation~~] promulgated by the
15 director of any division in carrying out the functions and
16 duties of the division shall be effective until approved by
17 the secretary unless otherwise provided by statute. Unless
18 otherwise provided by statute, no [~~regulation~~] rule affecting
19 any person or agency outside the department shall be adopted,
20 amended or repealed without a public hearing on the proposed
21 action before the secretary or a hearing officer designated
22 by [~~him~~] the secretary. The public hearing shall be held in
23 Santa Fe unless otherwise permitted by statute. Notice of
24 the subject matter of the [~~regulation~~] rule, the action
25 proposed to be taken, the time and place of the hearing, the

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1 manner in which interested persons may present their views
2 and the method by which copies of the proposed [~~regulation~~]
3 rule or proposed amendment or repeal of an existing
4 [~~regulation~~] rule may be obtained shall be published once at
5 least thirty days prior to the hearing date in a newspaper of
6 general circulation and mailed at least thirty days prior to
7 the hearing date to all persons who have made a written
8 request for advance notice of hearing.

9 F. In the event the secretary anticipates that
10 adoption, amendment or repeal of a rule [~~or regulation~~] will
11 be required by a cancellation, reduction or suspension of
12 federal funds or order by a court of competent jurisdiction:

13 (1) if the secretary is notified by
14 appropriate federal authorities at least sixty days prior to
15 the effective date of such cancellation, reduction or
16 termination of federal funds, the department is required to
17 promulgate [~~regulations~~] rules through the public hearing
18 process to be effective on the date mandated by the
19 appropriate federal authority; or

20 (2) if the secretary is notified by
21 appropriate federal authorities or court less than sixty days
22 prior to the effective date of such cancellation, reduction
23 or suspension of federal funds or court order, the department
24 is authorized without a public hearing to promulgate interim
25 rules [~~or regulations~~] effective for a period not to exceed

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1 ninety days. Interim [~~regulations~~] rules shall not be
2 promulgated without first providing a written notice twenty
3 days in advance to providers of medical or behavioral health
4 services and beneficiaries of department programs. At the
5 time of the promulgation of the interim rules [~~or~~
6 ~~regulations~~], the department shall give notice of the public
7 hearing on the final rules [~~or regulations~~] in accordance
8 with Subsection E of this section.

9 G. If the secretary certifies to the secretary of
10 finance and administration and gives contemporaneous notice
11 of such certification through the human services register
12 that the department has insufficient state funds to operate
13 any of the programs it administers and that reductions in
14 services or benefit levels are necessary, the secretary may
15 engage in interim rulemaking. Notwithstanding any provision
16 to the contrary in the State Rules Act, interim rulemaking
17 shall be conducted pursuant to Subsection E of this section,
18 except:

19 (1) the period of notice of public hearing
20 shall be fifteen days;

21 (2) the department shall also send
22 individual notices of the interim rulemaking and of the
23 public hearing to affected providers and beneficiaries;

24 (3) rules [~~and regulations~~] promulgated
25 pursuant to the provisions of this subsection shall be in

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1 effect not less than five days after the public hearing;

2 (4) rules [~~and regulations~~] promulgated
3 pursuant to the provisions of this subsection shall not be in
4 effect for more than ninety days; and

5 (5) if final rules [~~and regulations~~] are
6 necessary to replace the interim rules [~~and regulations~~], the
7 department shall give notice of intent to promulgate final
8 rules [~~and regulations~~] at the time of notice herein. The
9 final rules [~~and regulations~~] shall be promulgated not more
10 than forty-five days after the public hearing and filed in
11 accordance with the State Rules Act.

12 H. At the time of the promulgation of the interim
13 rules [~~or regulations~~], the department shall give notice of
14 the public hearing on the final rules [~~or regulations~~] in
15 accordance with Subsection E of this section.

16 I. The secretary shall ensure that any behavioral
17 health services, including mental health and substance abuse
18 services, provided, contracted for or approved are in
19 compliance with the requirements of Section 9-7-6.4 NMSA
20 1978.

21 J. All rules [~~and regulations~~] shall be filed in
22 accordance with the State Rules Act."

23 SECTION 10. Section 9-15-6 NMSA 1978 (being Laws 1983,
24 Chapter 297, Section 6, as amended) is amended to read:

25 "9-15-6. SECRETARY--DUTIES AND GENERAL POWERS.--

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

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

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

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

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

25 (4) within the limitations of available

underscored material = new
[bracketed material] = delete

1 appropriations and applicable laws, employ and fix the
2 compensation of those persons necessary to discharge [~~his~~]
3 the 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
7 of law for whose administration or execution [~~he~~] the
8 secretary is responsible and to enforce those orders and
9 instructions by appropriate administrative action in the
10 courts;

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

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

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

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

25 (a) minimize or eliminate duplication

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1 of services;

2 (b) coordinate activities and resolve
3 problems of mutual concern; and

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

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

12 [~~(11) give bond in the penal sum of twenty-~~
13 ~~five thousand dollars (\$25,000) and require directors to each~~
14 ~~give bond in the penal sum of ten thousand dollars (\$10,000)~~
15 ~~conditioned upon the faithful performance of duties, as~~
16 ~~provided in the Surety Bond Act. The department shall pay~~
17 ~~the costs of these bonds; and~~

18 ~~(12) require performance bonds of such~~
19 ~~department employees and officers as he deems necessary, as~~
20 ~~provided in the Surety Bond Act. The department shall pay~~
21 ~~the costs of these bonds.]~~

22 C. The secretary may apply for and receive in the
23 name of the department any public or private funds, including
24 but not limited to United States government funds, available
25 to the department to carry out its programs, duties or

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1 services.

2 D. The secretary may make and adopt such
3 reasonable [~~and~~] procedural rules [~~and regulations~~] as may be
4 necessary to carry out the [~~duties of the department and its~~
5 ~~divisions~~] provisions of the Economic Development Department
6 Act. For any other rule promulgated, adopted or amended, the
7 secretary shall cite the specific statutory provisions
8 warranting the rule. The secretary may adopt a rule only
9 upon specific statutory authorization regarding the content
10 of the rule. No rule [~~or regulation~~] promulgated by the
11 director of any division in carrying out the functions and
12 duties of the division shall be effective until approved by
13 the secretary unless otherwise provided by statute. Unless
14 otherwise provided by statute, no [~~regulation~~] rule affecting
15 any person or agency outside the department shall be adopted,
16 amended or repealed without a public hearing on the proposed
17 action before the secretary or a hearing officer designated
18 by [~~him~~] the secretary. The public hearing shall be held in
19 Santa Fe unless otherwise permitted by statute. Notice of
20 the subject matter of the [~~regulation~~] rule, the action
21 proposed to be taken, the time and place of the hearing, the
22 manner in which interested persons may present their views
23 and the method by which copies of the proposed [~~regulation~~]
24 rule or proposed amendment or repeal of an existing
25 [~~regulation~~] rule may be obtained shall be published once at

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1 least thirty days prior to the hearing date in a newspaper of
2 general circulation and mailed at least thirty days prior to
3 the hearing date to all persons who have made a written
4 request for advance notice of hearing. All rules [~~and~~
5 ~~regulations~~] shall be filed in accordance with the State
6 Rules Act."

7 SECTION 11. Section 9-15A-6 NMSA 1978 (being Laws 1991,
8 Chapter 21, Section 6, as amended) is amended to read:

9 "9-15A-6. SECRETARY--DUTIES AND GENERAL POWERS.--

10 A. The secretary is responsible to the governor
11 for the operation of the department. It is [~~his~~] the
12 secretary's duty to manage all operations of the department
13 and to administer and enforce the laws with which [~~he~~] the
14 secretary or the department is charged.

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

22 (1) except as otherwise provided in the
23 Tourism Department Act, exercise general supervisory and
24 appointing authority over all department employees, subject
25 to any applicable personnel laws and [~~regulations~~] rules;

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

5 (3) organize the department into those
6 organizational units ~~[he]~~ that the secretary deems will
7 enable it to function most efficiently;

8 (4) within the limitations of available
9 appropriations and applicable laws, employ and fix the
10 compensation of those persons necessary to discharge ~~[his]~~
11 the secretary's duties;

12 (5) take administrative action by issuing
13 orders and instructions, not inconsistent with the law, to
14 assure implementation of and compliance with the provisions
15 of law for which administration or execution ~~[he]~~ the
16 secretary is responsible and to enforce those orders and
17 instructions by appropriate administrative action in the
18 courts;

19 (6) conduct research and studies that will
20 improve the operations of the department and the provision of
21 services to the citizens of the state;

22 (7) provide for courses of instruction and
23 practical training for employees of the department and other
24 persons involved in the administration of programs, with the
25 objective of improving the operations and efficiency of

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1 administration;

2 (8) prepare an annual budget of the
3 department based upon the five-year tourism plan approved by
4 the commission. This plan shall be updated and approved
5 annually by the commission;

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

8 (a) minimize or eliminate duplication
9 of services;

10 (b) coordinate activities and resolve
11 problems of mutual concern; and

12 (c) resolve by agreement the manner
13 and extent to which the department shall provide budgeting,
14 recordkeeping and related clerical assistance; and

15 (10) appoint a "director" for each division.
16 These appointed positions are exempt from the provisions of
17 the Personnel Act. Persons appointed to these positions
18 shall serve at the pleasure of the secretary.

19 ~~[(11) give bond in the penal sum of twenty-~~
20 ~~five thousand dollars (\$25,000) and require directors each to~~
21 ~~give bond in the penal sum of ten thousand dollars (\$10,000)~~
22 ~~conditioned upon the faithful performance of duties, as~~
23 ~~provided in the Surety Bond Act. The department shall pay~~
24 ~~the costs of these bonds; and~~

25 ~~(12) require performance bonds of such~~

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1 ~~department employees and officers as he deems necessary, as~~
2 ~~provided in the Surety Bond Act. The department shall pay~~
3 ~~the costs of these bonds.]~~

4 C. The secretary may apply for and receive in the
5 name of the department any public or private funds, including
6 but not limited to United States government funds, available
7 to the department to carry out its programs, duties or
8 services.

9 D. The secretary may make and adopt such
10 reasonable [~~and~~] procedural rules [~~and regulations~~] as may be
11 necessary to carry out the [~~duties of the department and its~~
12 ~~divisions~~] provisions of the Tourism Department Act. For any
13 other rule promulgated, adopted or amended, the secretary
14 shall cite the specific statutory provisions warranting the
15 rule. The secretary may adopt a rule only upon specific
16 statutory authorization regarding the content of the rule.

17 No rule [~~or regulation~~] promulgated by the director of any
18 division in carrying out the functions and duties of the
19 division shall be effective until approved by the secretary
20 unless otherwise provided by statute. Unless otherwise
21 provided by statute, no [~~regulation~~] rule affecting any
22 person or agency outside the department shall be adopted,
23 amended or repealed without a public hearing on the proposed
24 action before the secretary or a hearing officer designated
25 by [~~him~~] the secretary. The public hearing shall be held in

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

14 SECTION 12. Section 9-16-6 NMSA 1978 (being Laws 1983,
15 Chapter 297, Section 22) is amended to read:

16 "9-16-6. SUPERINTENDENT--DUTIES AND GENERAL POWERS.--

17 A. The superintendent is responsible to the
18 governor for the operation of the department. It is [~~his~~]
19 the superintendent's duty to manage all operations of the
20 department and to administer and enforce the laws with which
21 [~~he~~] the superintendent or the department is charged.

22 B. To perform [~~his~~] the superintendent's duties,
23 the superintendent has every power expressly enumerated in
24 the laws, whether granted to the superintendent or the
25 department or any division of the department, except where

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1 authority conferred upon any division is explicitly exempted
2 from the superintendent's authority by statute. In
3 accordance with these provisions, the superintendent shall:

4 (1) except as otherwise provided in the
5 Regulation and Licensing Department Act, exercise general
6 supervisory and appointing authority over all department
7 employees, subject to any applicable personnel laws and
8 [~~regulations~~] rules;

9 (2) delegate authority to subordinates as
10 [~~he~~] the superintendent deems necessary and appropriate,
11 clearly delineating such delegated authority and the
12 limitations thereto;

13 (3) organize the department into those
14 organizational units [~~he~~] that the superintendent deems will
15 enable it to function most efficiently, subject to any
16 provisions of law requiring or establishing specific
17 organizational units;

18 (4) within the limitations of available
19 appropriations and applicable laws, employ and fix the
20 compensation of those persons necessary to discharge [~~his~~]
21 the superintendent's duties;

22 (5) take administrative action by issuing
23 orders and instructions, not inconsistent with the law, to
24 assure implementation of and compliance with the provisions
25 of law for whose administration or execution [~~he~~] the

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1 superintendent is responsible and to enforce those orders and
2 instructions by appropriate administrative action or actions
3 in the courts;

4 (6) conduct research and studies that will
5 improve the operations of the department and the provision of
6 services to the citizens of the state;

7 (7) provide courses of instruction and
8 practical training for employees of the department and other
9 persons involved in the administration of programs, with the
10 objective of improving the operations and efficiency of
11 administration;

12 (8) prepare an annual budget of the
13 department;

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

16 (a) minimize or eliminate duplication
17 of services and jurisdictional conflicts;

18 (b) coordinate activities and resolve
19 problems of mutual concern; and

20 (c) resolve by agreement the manner
21 and extent to which the department shall provide budgeting,
22 recordkeeping and related clerical assistance to
23 administratively attached agencies; and

24 (10) appoint, with the governor's consent, a
25 "director" for each division. These appointed positions are

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1 exempt from the provisions of the Personnel Act. Persons
2 appointed to these positions shall serve at the pleasure of
3 the superintendent.

4 ~~[(11) give bond in the penal sum of twenty-~~
5 ~~five thousand dollars (\$25,000) and require directors to each~~
6 ~~give bond in the penal sum of ten thousand dollars (\$10,000)~~
7 ~~conditioned upon the faithful performance of duties, as~~
8 ~~provided in the Surety Bond Act. The department shall pay~~
9 ~~the costs of these bonds; and~~

10 ~~(12) require performance bonds of such~~
11 ~~department employees and officers as he deems necessary, as~~
12 ~~provided in the Surety Bond Act. The department shall pay~~
13 ~~the costs of these bonds.]~~

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

19 D. The superintendent may make and adopt such
20 reasonable [and] procedural rules [and regulations] as may be
21 necessary to carry out the [duties of the department and its
22 divisions] provisions of the Regulation and Licensing
23 Department Act. For any other rule promulgated, adopted or
24 amended, the superintendent shall cite the specific statutory
25 provisions warranting the rule. The superintendent may adopt

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1 a rule only upon specific statutory authorization regarding
2 the content of the rule. No rule [~~or regulation~~] promulgated
3 by the director of any division in carrying out the functions
4 and duties of the division shall be effective until approved
5 by the superintendent, unless otherwise provided by statute.
6 Unless otherwise provided by statute, no [~~regulation~~] rule
7 affecting any person or agency outside the department shall
8 be adopted, amended or repealed without a public hearing on
9 the proposed action before the superintendent or a hearing
10 officer designated by [~~him~~] the superintendent. The public
11 hearing shall be held in Santa Fe unless otherwise permitted
12 by statute. Notice of the subject matter of the [~~regulation~~]
13 rule, the action proposed to be taken, the time and place of
14 the hearing, the manner in which interested persons may
15 present their views and the method by which copies of the
16 proposed [~~regulation~~] rule or proposed amendment or repeal of
17 an existing [~~regulation~~] rule may be obtained shall be
18 published once at least thirty days prior to the hearing date
19 in a newspaper of general circulation and mailed at least
20 thirty days prior to the hearing date to all persons who have
21 made a written request for advance notice of hearing. All
22 rules [~~and regulations~~] shall be filed in accordance with the
23 State Rules Act."

24 SECTION 13. Section 9-17-5 NMSA 1978 (being Laws 1983,
25 Chapter 301, Section 5) is amended to read:

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1 "9-17-5. SECRETARY--DUTIES AND GENERAL POWERS.--

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

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

15 (1) except as otherwise provided in the
16 General Services Department Act, exercise general supervisory
17 and appointing authority over all department employees,
18 subject to any applicable personnel laws and [~~regulations~~]
19 rules;

20 (2) delegate authority to subordinates as
21 [~~he~~] the secretary deems necessary and appropriate, clearly
22 delineating such delegated authority and the limitations
23 thereto;

24 (3) organize the department into those
25 organizational units [~~he~~] that the secretary deems will

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1 enable it to function most efficiently, subject to any
2 provisions of law, including executive orders of the
3 governor, requiring or establishing specific organizational
4 units;

5 (4) within the limitations of available
6 appropriations and applicable laws, employ and fix the
7 compensation of those persons necessary to discharge [~~his~~
8 the secretary's duties;

9 (5) take administrative action by issuing
10 orders and instructions, not inconsistent with law, to assure
11 implementation of and compliance with the provisions of law
12 for whose administration or execution [~~he~~] the secretary is
13 responsible, and to enforce those orders and instructions by
14 appropriate administrative action or action in the courts;

15 (6) conduct research and studies that will
16 improve the operations of the department and the provision of
17 services to other departments and the citizens of the state;

18 (7) provide courses of instruction and
19 practical training for employees of the department and to
20 other persons involved in the administration of programs,
21 with the objective of improving the operations and efficiency
22 of administration;

23 (8) prepare the department's annual budget;

24 (9) cooperate with the heads of
25 administratively attached agencies, and adjunct agencies, at

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1 their request, in order to:

2 (a) minimize or eliminate duplication
3 of services and jurisdictional conflicts;

4 (b) coordinate activities and resolve
5 problems of mutual concern; and

6 (c) resolve by agreement the manner
7 and extent to which the department shall provide budgeting,
8 recordkeeping and related clerical assistance to
9 administratively attached agencies; and

10 (10) appoint, with the governor's consent,
11 one "deputy secretary" and, for each division, a "director".
12 These appointed positions are exempt from the provisions of
13 the Personnel Act. Persons appointed to these positions
14 shall serve at the pleasure of the secretary.

15 ~~[(11) give bond as provided in the Surety~~
16 ~~Bond Act. The department shall pay the cost of such bond;~~
17 ~~and~~

18 ~~(12) require faithful performance or other~~
19 ~~fidelity bonds of such department employees and officers as~~
20 ~~he deems necessary, as provided in the Surety Bond Act. The~~
21 ~~department shall pay the cost of such bonds.]~~

22 C. The secretary may apply for and receive, with
23 the governor's approval, in the name of the department, any
24 public or private funds, including but not limited to United
25 States government funds, available to the department to carry

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1 out its programs, duties or services.

2 D. Where functions of departments overlap or a
3 function assigned to one department could be better performed
4 by another department, the secretary may recommend
5 appropriate legislation to the next session of the
6 legislature for its approval.

7 E. The secretary may make and adopt such
8 reasonable [~~administrative and~~] procedural rules [~~and~~
9 ~~regulations~~] as may be necessary to carry out the [~~duties of~~
10 ~~the department and its divisions~~] provisions of the General
11 Services Department Act. For any other rule promulgated,
12 adopted or amended, the secretary shall cite the specific
13 statutory provisions warranting the rule. The secretary may
14 adopt a rule only upon specific statutory authorization
15 regarding the content of the rule. No rule [~~or regulation~~
16 promulgated by the director of any division in carrying out
17 the functions and duties of the division shall be effective
18 until approved by the secretary unless otherwise provided by
19 statute. Unless otherwise provided by statute, no
20 [~~regulation~~] rule affecting any person or agency outside the
21 department shall be adopted, amended or repealed without a
22 public hearing on the proposed action before the secretary or
23 a hearing officer designated by [~~him~~] the secretary. The
24 public hearing shall be held in Santa Fe unless otherwise
25 permitted by statute. Notice of the subject matter of the

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

12 SECTION 14. Section 9-19-6 NMSA 1978 (being Laws 1987,
13 Chapter 254, Section 6, as amended) is amended to read:

14 "9-19-6. SECRETARY--DUTIES AND GENERAL POWERS.--

15 A. The secretary is responsible to the governor
16 for the operation of the department. It is ~~[his]~~ the
17 secretary's duty to manage all operations of the department
18 and to administer and enforce the laws with which ~~[he]~~ the
19 secretary or the department is charged.

20 B. To perform ~~[his]~~ the secretary's duties, the
21 secretary has every power expressly enumerated in the laws,
22 whether granted to the secretary or the department or any
23 division of the department, except where authority conferred
24 upon any division is explicitly exempted from the secretary's
25 authority by statute. In accordance with these provisions,

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1 the secretary shall:

2 (1) except as otherwise provided in the
3 Department of Public Safety Act, exercise general supervisory
4 and appointing authority over all department employees,
5 subject to any applicable personnel laws and [~~regulations~~]
6 rules; provided that the secretary shall not reduce positions
7 for the seventy-sixth fiscal year budgeted in the General
8 Appropriation Act of 1987 except for cause, by attrition or
9 by occurrence of a vacancy;

10 (2) delegate authority to subordinates as
11 [~~he~~] the secretary deems necessary and appropriate, clearly
12 delineating such delegated authority and the limitations
13 thereto;

14 (3) organize the department into those
15 organizational units [~~he~~] that the secretary deems will
16 enable it to function most efficiently, subject to any
17 provisions of law requiring or establishing specific
18 organizational units;

19 (4) within the limitations of available
20 appropriations and applicable laws, employ and fix the
21 compensation of those persons necessary to discharge [~~his~~]
22 the secretary's duties;

23 (5) take administrative action by issuing
24 orders and instructions, not inconsistent with the law, to
25 assure implementation of and compliance with the provisions

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1 of law with the administration or execution of which [~~he~~] the
2 secretary is responsible and to enforce those orders and
3 instructions by appropriate administrative action [~~or~~
4 ~~actions~~] in the court;

5 (6) conduct research and studies that will
6 improve the operation of the department and examine other
7 entities and functions of state government related to public
8 safety for purposes of possible transfer to the department;

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

14 (8) prepare an annual budget of the
15 department;

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

18 (a) minimize or eliminate duplication
19 of services and jurisdictional conflicts;

20 (b) coordinate activities and resolve
21 problems of mutual concern; and

22 (c) resolve by agreement the manner
23 and extent to which the department shall provide budgeting,
24 recordkeeping and related clerical assistance to
25 administratively attached agencies, if any;

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1 (10) appoint, with the governor's consent,
2 for each division, a director. These appointed positions are
3 exempt from the provisions of the Personnel Act. Persons
4 appointed to these positions shall serve at the pleasure of
5 the secretary; and

6 (11) appoint the director of the New Mexico
7 law enforcement academy, subject to the approval of the New
8 Mexico law enforcement academy board.

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

15 ~~(13) require performance bonds of such~~
16 ~~employees and officers as he deems necessary as provided in~~
17 ~~the Surety Bond Act, with the department paying the costs of~~
18 ~~such bonds.]~~

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

24 D. Where functions of departments overlap or a
25 function assigned to one department could better be performed

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1 by another department, the secretary may recommend
2 appropriate legislation to the next session of the
3 legislature for its approval.

4 E. The secretary may make and adopt such
5 reasonable [~~and~~] procedural rules [~~and regulations~~] as may be
6 necessary to carry out the [~~duties of the department and its~~
7 ~~divisions~~] provisions of the Department of Public Safety Act.
8 For any other rule promulgated, adopted or amended, the
9 secretary shall cite the specific statutory provisions
10 warranting the rule. The secretary may adopt a rule only
11 upon specific statutory authorization regarding the content
12 of the rule. No rule [~~or regulation~~] promulgated by the
13 director of any division in carrying out the functions and
14 duties of the division shall be effective until approved by
15 the secretary unless otherwise provided by statute. Unless
16 otherwise provided by statute, no [~~regulation~~] rule affecting
17 any person or agency outside the department shall be adopted,
18 amended or repealed without a public hearing on the proposed
19 action before the secretary or a hearing officer designated
20 by [~~him~~] the secretary. The public hearing shall be held in
21 Santa Fe unless otherwise permitted by statute. Notice of
22 the subject matter of the [~~regulation~~] rule, the action
23 proposed to be taken, the time and place of the hearing, the
24 manner in which interested persons may present their views
25 and the method by which copies of the proposed [~~regulation~~]

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1 rule or proposed amendment or repeal of an existing
2 [~~regulation~~] rule may be obtained shall be published once at
3 least thirty days prior to the hearing date in a newspaper of
4 general circulation in the state and mailed at least thirty
5 days prior to the hearing date to all persons who have made a
6 written request for advance notice of hearing.

7 F. All rules [~~and regulations~~] shall be filed in
8 accordance with the State Rules Act."

9 SECTION 15. Section 9-21-6 NMSA 1978 (being Laws 2004,
10 Chapter 18, Section 6 and Laws 2004, Chapter 24, Section 6)
11 is amended to read:

12 "9-21-6. SECRETARY--DUTIES AND GENERAL POWERS.--

13 A. The secretary is responsible to the governor
14 for the operation of the department. It is the secretary's
15 duty to manage all operations of the department and to
16 administer and enforce the laws with which the secretary or
17 the department is charged.

18 B. To perform [~~his~~] the secretary's duties, the
19 secretary has every power expressly enumerated in the laws,
20 whether granted to the secretary or any division of the
21 department, except where authority conferred upon any
22 division in the department is explicitly exempted from the
23 secretary's authority by statute. In accordance with these
24 provisions, the secretary shall:

25 (1) except as otherwise provided in the

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1 Indian Affairs Department Act, exercise general supervisory
2 and appointing authority over all department employees,
3 subject to any applicable personnel laws and rules;

4 (2) delegate authority to subordinates as
5 necessary and appropriate, clearly delineating such delegated
6 authority and the limitations thereto;

7 (3) organize the department into those
8 organizational units that will enable it to function most
9 efficiently, subject to any provisions of law requiring or
10 establishing specific organizational units;

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

15 (5) take administrative action by issuing
16 orders and instructions, not inconsistent with the law, to
17 ensure implementation of and compliance with the provisions
18 of law with the administration or execution of which the
19 secretary is responsible, and to enforce those orders and
20 instructions by appropriate administrative action or actions
21 in the courts;

22 (6) conduct research and studies that will
23 improve the operations of the department and the provision of
24 services to the citizens of the state;

25 (7) provide courses of instruction and

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1 practical training for employees of the department and other
2 persons involved in the administration of programs with the
3 objective of improving the operations and efficiency of
4 administration;

5 (8) prepare an annual budget of the
6 department;

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

9 (a) minimize or eliminate duplication
10 of services and jurisdictional conflicts;

11 (b) coordinate activities and resolve
12 problems of mutual concern; and

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

17 (10) appoint, with the governor's consent,
18 for each division, a "director". These appointed positions
19 are exempt from the provisions of the Personnel Act. Persons
20 appointed to these positions shall serve at the pleasure of
21 the secretary.

22 C. The secretary may apply for and receive, with
23 the governor's approval, in the name of the department, any
24 public or private funds, including United States government
25 funds, available to the department to carry out its programs,

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1 duties or services.

2 D. Where functions of departments overlap, or a
3 function assigned to one department could better be performed
4 by another department, the secretary may recommend
5 appropriate legislation to the next session of the
6 legislature for its approval.

7 E. The secretary may make and adopt such
8 reasonable procedural rules as may be necessary to carry out
9 the ~~[duties of the department and its divisions]~~ provisions
10 of the Indian Affairs Department Act. For any other rule
11 promulgated, adopted or amended, the secretary shall cite the
12 specific statutory provisions warranting the rule. The
13 secretary may adopt a rule only upon specific statutory
14 authorization regarding the content of the rule. A rule
15 promulgated by the director of a division in carrying out the
16 functions and duties of the division shall not be effective
17 until approved by the secretary. Unless otherwise provided
18 by statute, a rule affecting a person or agency outside the
19 department shall not be adopted, amended or repealed without
20 a public hearing on the proposed action before the secretary
21 or a hearing officer designated by the secretary. The public
22 hearing shall be held in Santa Fe unless otherwise permitted
23 by statute. Notice of the subject matter of the rule, the
24 action proposed to be taken, the time and place of the
25 hearing, the manner in which interested persons may present

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

9 SECTION 16. Section 9-23-6 NMSA 1978 (being Laws 2004,
10 Chapter 23, Section 6) is amended to read:

11 "9-23-6. SECRETARY--DUTIES AND GENERAL POWERS.--

12 A. The secretary is responsible to the governor
13 for the operation of the department. It is the secretary's
14 duty to manage all operations of the department and to
15 administer and enforce the laws with which the secretary or
16 the department is charged.

17 B. To perform the secretary's duties, the
18 secretary has every power expressly enumerated in the laws,
19 whether granted to the secretary or the department or any
20 division of the department, except where authority conferred
21 upon any division is explicitly exempted from the secretary's
22 authority by statute. In accordance with these provisions,
23 the secretary shall:

24 (1) except as otherwise provided in the
25 Aging and Long-Term Services Department Act, exercise general

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1 supervisory and appointing authority over all department
2 employees, subject to any applicable personnel laws and
3 [~~regulations~~] rules;

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

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

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

16 (5) take administrative action by issuing
17 orders and instructions, not inconsistent with the law, to
18 ensure implementation of and compliance with the provisions
19 of law for whose administration or execution the secretary is
20 responsible and to enforce those orders and instructions by
21 appropriate administrative action in the courts;

22 (6) conduct research and studies that will
23 improve the operations of the department and the provision of
24 services to the citizens of the state;

25 (7) provide courses of instruction and

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1 practical training for employees of the department and other
2 persons involved in the administration of programs with the
3 objective of improving the operations and efficiency of
4 administration;

5 (8) prepare an annual budget of the
6 department;

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

9 (a) minimize or eliminate duplication
10 of services and jurisdictional conflicts;

11 (b) coordinate activities and resolve
12 problems of mutual concern; and

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

17 (10) appoint, with the governor's consent,
18 for each division, a "director". These appointed positions
19 are exempt from the provisions of the Personnel Act. Persons
20 appointed to these positions shall serve at the pleasure of
21 the secretary.

22 C. The secretary may apply for and receive, with
23 the governor's approval, in the name of the department, any
24 public or private funds, including United States government
25 funds, available to the department to carry out its programs,

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1 duties or services.

2 D. Where functions of departments overlap or a
3 function assigned to one department could better be performed
4 by another department, the secretary may recommend
5 appropriate legislation to the next session of the
6 legislature for its approval.

7 E. The secretary may make and adopt such
8 reasonable procedural rules as may be necessary to carry out
9 the ~~[duties of the department and its divisions]~~ provisions
10 of the Aging and Long-Term Services Department Act. For any
11 other rule promulgated, adopted or amended, the secretary
12 shall cite the specific statutory provisions warranting the
13 rule. The secretary may adopt a rule only upon specific
14 statutory authorization regarding the content of the rule.

15 A rule promulgated by the director of any division in
16 carrying out the functions and duties of the division shall
17 not be effective until approved by the secretary unless
18 otherwise provided by statute. Unless otherwise provided by
19 statute, no rule affecting any person or agency outside the
20 department shall be adopted, amended or repealed without a
21 public hearing on the proposed action before the secretary or
22 a hearing officer designated by the secretary. The public
23 hearing shall be held in Santa Fe unless otherwise permitted
24 by statute. Notice of the subject matter of the rule, the
25 action proposed to be taken, the time and place of the

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

10 SECTION 17. Section 9-24-8 NMSA 1978 (being Laws 2004,
11 Chapter 27, Section 8) is amended to read:

12 "9-24-8. SECRETARY--DUTIES AND GENERAL POWERS.--

13 A. The secretary is responsible to the governor
14 for the operation of the department. It is the secretary's
15 duty to manage all operations of the department and to
16 administer and enforce the laws with which [~~he~~] the secretary
17 or the department is charged.

18 B. To perform [~~his~~] the secretary's duties, the
19 secretary has every power expressly enumerated in the law,
20 whether granted to the secretary, the department or any
21 division of the department, except when any division is
22 explicitly exempted from the secretary's power by statute.
23 In accordance with these provisions, the secretary shall:

24 (1) except as otherwise provided in the
25 Public Education Department Act or the Public School Code,

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1 exercise general supervisory and appointing power over all
2 department employees, subject to applicable personnel laws
3 and rules;

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

8 (3) organize the department into
9 organizational units as necessary to enable it to function
10 most efficiently, subject to any provisions of law requiring
11 or establishing specific organizational units;

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

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

22 (6) conduct research and studies that will
23 improve the operation of the department and the provision of
24 services to the citizens of the state;

25 (7) provide courses of instruction and

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

1 practical training for employees of the department and other
2 persons involved in the administration of programs with the
3 objectives of improving the operations and efficiency of
4 administration and of promoting comprehensive, coordinated
5 and culturally sensitive services that address the education
6 of the whole child;

7 (8) prepare an annual budget for the
8 department; and

9 (9) provide cooperation, at the request of
10 administratively attached agencies and adjunct agencies, in
11 order to:

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

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

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

20 C. The secretary may apply for and receive, with
21 the governor's approval, in the name of the department, any
22 public or private funds, including United States government
23 funds, available to the department to carry out its programs,
24 duties or services.

25 D. The secretary may make and adopt such

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1 reasonable ~~[and]~~ procedural rules as may be necessary to
2 carry out the ~~[duties of the department and its divisions]~~
3 provisions of the Public Education Department Act. For any
4 other rule promulgated, adopted or amended, the secretary
5 shall cite the specific statutory provisions warranting the
6 rule. The secretary may adopt a rule only upon specific
7 statutory authorization regarding the content of the rule.

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

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1 for advance notice of hearing. All rules shall be filed in
2 accordance with the State Rules Act."

3 SECTION 18. Section 9-25-8 NMSA 1978 (being Laws 2005,
4 Chapter 289, Section 8) is amended to read:

5 "9-25-8. SECRETARY--DUTIES AND GENERAL POWERS.--

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

11 B. To perform the duties of the secretary, the
12 secretary has every power expressly enumerated in the law,
13 whether granted to the secretary, the department or any
14 division of the department, except when any division is
15 explicitly exempted from the secretary's power by statute.
16 In accordance with these provisions, the secretary shall:

17 (1) except as otherwise provided in the
18 Higher Education Department Act or Chapter 21 NMSA 1978,
19 exercise general supervisory and appointing power over all
20 department employees, subject to applicable personnel laws
21 and rules;

22 (2) delegate power to subordinates as the
23 secretary deems necessary and appropriate, clearly
24 delineating such delegated power and the limitations to that
25 power;

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~~[bracketed material] = delete~~

1 (3) organize the department into
2 organizational units as necessary to enable it to function
3 most efficiently, subject to any provisions of law requiring
4 or establishing specific organizational units;

5 (4) within the limitations of available
6 appropriations and applicable laws, employ and fix the
7 compensation of those persons necessary to discharge the
8 duties of the secretary;

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

15 (6) conduct research and studies that will
16 improve the operation of the department and the provision of
17 services to the citizens of the state;

18 (7) provide courses of instruction and
19 practical training for employees of the department and other
20 persons involved in the administration of programs with the
21 objectives of improving the operations and efficiency of
22 administration;

23 (8) prepare an annual budget for the
24 department; and

25 (9) provide cooperation, at the request of

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1 administratively attached agencies and adjunct agencies, in
2 order to:

3 (a) minimize or eliminate duplication
4 of services and jurisdictional conflicts;

5 (b) coordinate activities and resolve
6 problems of mutual concern; and

7 (c) resolve by agreement the manner
8 and extent to which the department shall provide budgeting,
9 recordkeeping and related clerical assistance to
10 administratively attached agencies.

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

16 D. The secretary may make and adopt such
17 reasonable ~~[and]~~ procedural rules as may be necessary to
18 carry out the ~~[duties of the department and its divisions]~~
19 provisions of the Higher Education Department Act. For any
20 other rule promulgated, adopted or amended, the secretary
21 shall cite the specific statutory provisions warranting the
22 rule. The secretary may adopt a rule only upon specific
23 statutory authorization regarding the content of the rule.

24 No rule promulgated by the director of any division in
25 carrying out the functions and duties of the division shall

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1 be effective until approved by the secretary. Unless
2 otherwise provided by statute, no rule affecting any person
3 or agency outside the department shall be adopted, amended or
4 repealed without a public hearing on the proposed action
5 before the secretary or a hearing officer designated by the
6 secretary. No rule promulgated by the department shall
7 infringe upon the authority vested by Article 12 of the
8 constitution of New Mexico in the boards of regents of the
9 educational institutions specified in that article. The
10 final public hearing on adoption, amendment or repeal of a
11 rule shall be held in Santa Fe unless otherwise permitted by
12 statute. Notice of the subject matter of the rule, the
13 action proposed to be taken, the time and place of the
14 hearing, the manner in which interested persons may present
15 their views and the method by which copies of the proposed
16 rule or proposed amendment or repeal of an existing rule may
17 be obtained shall be published once at least thirty days
18 prior to the hearing date in a newspaper of general
19 circulation and mailed at least thirty days prior to the
20 hearing date to all persons who have made a written request
21 for advance notice of hearing. All rules shall be filed in
22 accordance with the State Rules Act."

23 SECTION 19. Section 9-26-6 NMSA 1978 (being Laws 2007,
24 Chapter 200, Section 6) is amended to read:

25 "9-26-6. SECRETARY--GENERAL POWERS AND DUTIES.--

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

6 B. To perform the secretary's duties, the
7 secretary has every power expressly enumerated in the laws
8 whether granted to the secretary or the department or any
9 division of the department, except where authority conferred
10 upon the human rights commission is explicitly granted by
11 Section 28-1-4 NMSA 1978 and except where authority conferred
12 upon any division therein is explicitly exempted from the
13 secretary's authority by statute. In accordance with these
14 provisions, the secretary shall:

15 (1) except as otherwise provided in the
16 Workforce Solutions Department Act, exercise general
17 supervisory and appointing authority over all department
18 employees, subject to any applicable personnel laws and
19 [~~regulations~~] rules;

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

24 (3) organize the department into those
25 organizational units that the secretary deems will enable it

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1 to function most efficiently, subject to any provisions of
2 law requiring or establishing specific organizational units;

3 (4) within the limitations of available
4 appropriations and applicable laws, employ and fix the
5 compensation of those persons necessary to discharge the
6 secretary's duties;

7 (5) take administrative action by issuing
8 orders and instructions, not inconsistent with the law, to
9 ensure implementation of and compliance with the provisions
10 of law with the administration or execution of which the
11 secretary is responsible, and to enforce those orders and
12 instructions by appropriate administrative action or actions
13 in the court;

14 (6) conduct research and studies that will
15 improve the operation of the department;

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

21 (8) prepare an annual budget of the
22 department;

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

25 (a) minimize or eliminate duplication

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1 of services and jurisdictional conflicts;

2 (b) coordinate activities and resolve
3 problems of mutual concern; and

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

8 (10) within budgetary limits, appoint such
9 staff as required to carry out the duties of the secretary or
10 the department.

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

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

21 E. The secretary may make and adopt such
22 reasonable ~~[and]~~ procedural rules as may be necessary to
23 carry out the ~~[duties of the department and its divisions]~~
24 provisions of the Workforce Solutions Department Act. For
25 any other rule promulgated, adopted or amended, the secretary

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1 shall cite the specific statutory provisions warranting the
2 rule. The secretary may adopt a rule only upon specific
3 statutory authorization regarding the content of the rule.

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

24 SECTION 20. Section 9-28-4 NMSA 1978 (being Laws 2007,
25 Chapter 291, Section 4, as amended) is amended to read:

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1 "9-28-4. HOMELAND SECURITY AND EMERGENCY MANAGEMENT
2 DEPARTMENT--CREATED--POWERS AND DUTIES.--

3 A. The "homeland security and emergency
4 management department" is created in the executive branch.
5 The department is a cabinet department. The chief
6 administrative and executive officer of the department is the
7 "secretary of homeland security and emergency management",
8 who shall be appointed by the governor with the consent of
9 the senate and hold office at the pleasure of the governor.

10 B. The secretary is responsible to the governor
11 for the operation of the department. It is the secretary's
12 duty to manage all operations of the department and to
13 administer and enforce the laws with which the secretary or
14 the department is charged.

15 C. To perform the secretary's duties, the
16 secretary has every power expressly enumerated in the laws,
17 whether granted to the secretary or the department or any
18 division of the department, except where authority conferred
19 upon any division is explicitly exempted from the secretary's
20 authority by statute. In accordance with these provisions,
21 the secretary shall:

- 22 (1) except as otherwise provided in the
23 Homeland Security and Emergency Management Department Act,
24 exercise general supervisory and appointing authority over
25 all department employees, subject to any applicable personnel

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1 laws and rules;

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

6 (3) organize the department into those
7 organizational units that the secretary deems will enable it
8 to function most efficiently, subject to any provisions of
9 law requiring or establishing specific organizational units;

10 (4) within the limitations of available
11 appropriations and applicable laws, employ and fix the
12 compensation of those persons necessary to discharge the
13 secretary's duties;

14 (5) take administrative action by issuing
15 orders and instructions, not inconsistent with the law, to
16 ensure implementation of and compliance with the provisions
17 of law for whose administration or execution the secretary is
18 responsible and to enforce those orders and instructions by
19 appropriate administrative action or actions in the courts;

20 (6) conduct research and studies that will
21 improve the operations of the department and the provision of
22 services to the residents of the state;

23 (7) provide courses of instruction and
24 practical training for employees of the department and other
25 persons involved in the administration of programs, with the

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1 objective of improving the operations and efficiency of
2 administration;

3 (8) prepare an annual budget of the
4 department;

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

7 (a) minimize or eliminate duplication
8 of services and jurisdictional conflicts;

9 (b) coordinate activities and resolve
10 problems of mutual concern; and

11 (c) resolve by agreement the manner
12 and extent to which the department shall provide budgeting,
13 recordkeeping and related clerical assistance to
14 administratively attached agencies; and

15 (10) appoint, with the governor's consent, a
16 "director" for each division. These appointed positions are
17 exempt from the provisions of the Personnel Act. Persons
18 appointed to these positions shall serve at the pleasure of
19 the secretary.

20 D. The secretary may apply for and receive, with
21 the governor's approval, in the name of the department any
22 public or private funds, including United States government
23 funds, available to the department to carry out its programs,
24 duties or services.

25 E. The secretary may make and adopt such

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1 reasonable ~~[and]~~ procedural rules as may be necessary to
2 carry out the ~~[duties of the department and its divisions]~~
3 provisions of the Homeland Security and Emergency Management
4 Department Act. For any other rule promulgated, adopted or
5 amended, the secretary shall cite the specific statutory
6 provisions warranting the rule. The secretary may adopt a
7 rule only upon specific statutory authorization regarding the
8 content of the rule. No rule promulgated by the director of
9 any division in carrying out the functions and duties of the
10 division shall be effective until approved by the secretary,
11 unless otherwise provided by statute. Unless otherwise
12 provided by statute, no rule affecting any person or agency
13 outside the department shall be adopted, amended or repealed
14 without a public hearing on the proposed action before the
15 secretary or a hearing officer designated by the secretary.
16 The public hearing shall be held in Santa Fe unless otherwise
17 permitted by statute. Notice of the subject matter of the
18 rule, the action proposed to be taken, the time and place of
19 the hearing, the manner in which interested persons may
20 present their views and the method by which copies of the
21 proposed rule or proposed amendment or repeal of an existing
22 rule may be obtained shall be published once at least thirty
23 days prior to the hearing date in a newspaper of general
24 circulation and mailed at least thirty days prior to the
25 hearing date to all persons who have made a written request

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1 for advance notice of hearing. All rules shall be filed in
2 accordance with the State Rules Act."

3 SECTION 21. Section 14-4-2 NMSA 1978 (being Laws 1967,
4 Chapter 275, Section 2, as amended) is amended to read:

5 "14-4-2. DEFINITIONS.--As used in the State Rules Act:

6 A. "agency" means any agency, board, commission,
7 department, institution or officer of the state government
8 except the judicial and legislative branches of the state
9 government;

10 B. "person" includes individuals, associations,
11 partnerships, companies, business trusts and corporations;
12 and

13 C. "rule" means any rule, regulation, order or
14 standard [~~statement of policy~~], including amendments thereto
15 or repeals thereof, issued or promulgated by any agency and
16 purporting to affect one or more agencies besides the agency
17 issuing [~~such~~] the rule or to affect persons not members or
18 employees of [~~such~~] the issuing agency. An order or decision
19 or other document issued or promulgated in connection with
20 the disposition of any case or agency decision upon a
21 particular matter as applied to a specific set of facts shall
22 not be deemed such a rule, nor shall it constitute specific
23 adoption thereof by the agency. [~~Such term shall~~] "Rule"
24 does not include rules relating to the management,
25 confinement, discipline or release of inmates of any penal or

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1 charitable institution, the [~~Springer~~] New Mexico boys'
2 school, the girls' welfare home [~~of~~] or any hospital [~~not~~
3 ~~to~~]; rules made relating to the management of any particular
4 educational institution, whether elementary or otherwise [~~not~~
5 ~~to~~]; or rules made relating to admissions, discipline,
6 supervision, expulsion or graduation of students [~~therefrom~~
7 from any educational institution."

8 SECTION 22. A new section of the State Rules Act is
9 enacted to read:

10 "[NEW MATERIAL] RULEMAKING AUTHORITY.--

11 A. Statutory language granting rulemaking
12 authority or generally describing the powers and functions of
13 the department shall not be construed to extend further than
14 implementing or interpreting the specific powers and duties
15 conferred by the enabling statute.

16 B. An agency may make and adopt such reasonable
17 procedural rules as may be necessary to carry out its duties.
18 For any other rule promulgated, adopted or amended, the
19 agency shall cite the specific statutory provisions
20 warranting the rule. The agency may adopt a rule only upon
21 specific statutory authorization regarding the content of the
22 rule."