

1 SENATE BILL 489

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 William F. Burt

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10 AN ACT

11 RELATING TO EXECUTIVE ORGANIZATION; MERGING THE HOMELAND
12 SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT WITH THE
13 DEPARTMENT OF PUBLIC SAFETY; PROVIDING FOR TRANSFERS OF
14 FUNCTIONS, PERSONNEL, APPROPRIATIONS, MONEY, PROPERTY,
15 CONTRACTUAL OBLIGATIONS AND REFERENCES; REPEALING THE HOMELAND
16 SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT ACT; AMENDING,
17 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

22 "3-18-7. ADDITIONAL COUNTY AND MUNICIPAL POWERS--FLOOD
23 AND MUDSLIDE HAZARD AREAS--FLOOD PLAIN PERMITS--LAND USE
24 CONTROL--JURISDICTION--AGREEMENT.--

25 A. For the purpose of minimizing or eliminating

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

6 (1) designate and regulate flood plain areas
7 having special flood or mudslide hazards;

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

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

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

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

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

24 (c) adequate drainage is provided so as
25 to reduce exposure to flood hazards;

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

8 (6) designate and regulate floodways for the
9 passage of flood waters.

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

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

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

23 E. A county or municipality shall have exclusive
24 jurisdiction over flood plain permits issued under its
25 respective flood plain ordinance in accordance with this

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

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

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

22 H. The homeland security and emergency management
23 division of the department of public safety is designated as
24 the state coordinating agency for the national flood insurance
25 program and may assist counties or municipalities when

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1 requested by a county or municipality to provide technical
2 advice and assistance."

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

5 "9-19-3. PURPOSE.--The purpose of the Department of
6 Public Safety Act is to establish a single, unified department
7 to consolidate state law enforcement [~~and~~], safety and homeland
8 security and emergency management functions in order to provide
9 better management, real coordination and more efficient use of
10 state resources and manpower in responding to New Mexico's
11 public safety and homeland security and emergency management
12 needs and problems and to improve the professionalism of the
13 state's law enforcement and investigative functions and
14 personnel and the state's homeland security and emergency
15 management functions and personnel."

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

18 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the
19 executive branch the "department of public safety". The
20 department shall be a cabinet department and shall consist of,
21 but not be limited to:

- 22 A. the New Mexico state police division;
- 23 B. the New Mexico law enforcement academy;
- 24 C. the technical support division;
- 25 D. the administrative services division; [~~and~~]

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1 E. the information technology division; and
2 F. the homeland security and emergency management
3 division."

4 SECTION 4. Section 9-19-6 NMSA 1978 (being Laws 1987,
5 Chapter 254, Section 6, as amended) is amended to read:

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

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

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

19 (1) except as otherwise provided in the
20 Department of Public Safety Act, exercise general supervisory
21 and appointing authority over all department employees, subject
22 to any applicable personnel laws and regulations;

23 (2) except as otherwise provided in the
24 Department of Public Safety Act, serve as the coordinating
25 officer for all departments or agencies and all department and

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1 agency employees required to provide services after an
2 emergency has been declared by the governor;

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

7 [~~3~~] (4) organize the department into those
8 organizational units the secretary deems will enable it to
9 function most efficiently, subject to any provisions of law
10 requiring or establishing specific organizational units;

11 [~~4~~] (5) 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~~] (6) take administrative action by
16 issuing orders and instructions, not inconsistent with the law,
17 to assure 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 in the court;

21 [~~6~~] (7) conduct research and studies that
22 will improve the operation of the department and examine other
23 entities and functions of state government related to public
24 safety for purposes of possible transfer to the department;

25 [~~7~~] (8) 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)~~ (9) prepare an annual budget of the
6 department;

7 ~~(9)~~ (10) provide cooperation, at the request
8 of 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, if any;

17 ~~(10)~~ (11) appoint, with the governor's
18 consent, for each division, a director. These appointed
19 positions are exempt from the provisions of the Personnel Act.
20 Persons appointed to these positions shall serve at the
21 pleasure of the secretary;

22 ~~(11)~~ (12) appoint the director of the New
23 Mexico law enforcement academy, subject to the approval of the
24 New Mexico law enforcement academy board;

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

6 [~~(13)~~] (14) require performance bonds of such
7 employees and officers as the secretary deems necessary as
8 provided in the Surety Bond Act, with the department paying the
9 costs of such 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. Where functions of departments overlap or a
16 function assigned to one department could better be performed
17 by another department, the secretary may recommend appropriate
18 legislation to the next session of the legislature for its
19 approval.

20 E. The secretary may make and adopt such reasonable
21 and procedural rules and regulations as may be necessary to
22 carry out the duties of the department and its divisions. No
23 rule or regulation promulgated by the director of any division
24 in carrying out the functions and duties of the division shall
25 be effective until approved by the secretary unless otherwise

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1 provided by statute. Nothing in this section erodes or changes
2 the powers and duties of the law enforcement academy board as
3 set forth in Sections 29-7-3 and 29-7-4 NMSA 1978. Unless
4 otherwise provided by statute, no regulation affecting any
5 person or agency outside the department shall be adopted,
6 amended or repealed without a public hearing on the proposed
7 action before the secretary or a hearing officer designated by
8 the secretary. The public hearing shall be held in Santa Fe
9 unless otherwise permitted by statute. Notice of the subject
10 matter of the regulation, the action proposed to be taken, the
11 time and place of the hearing, the manner in which interested
12 persons may present their views and the method by which copies
13 of the proposed regulation, proposed amendment or repeal of an
14 existing regulation may be obtained shall be published once at
15 least thirty days prior to the hearing date in a newspaper of
16 general circulation in the state and mailed at least thirty
17 days prior to the hearing date to all persons who have made a
18 written request for advance notice of hearing.

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

21 SECTION 5. Section 9-19-7 NMSA 1978 (being Laws 1987,
22 Chapter 254, Section 7, as amended) is amended to read:

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

25 A. The organizational units of the department and

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

12 B. The New Mexico state police division shall
13 consist of the commissioned officers and civilian personnel of
14 the New Mexico state police and such other personnel as may be
15 assigned by the secretary or by the governor pursuant to an
16 executive order as authorized in the Department of Public
17 Safety Act. The New Mexico state police division shall also
18 include:

19 (1) the special investigations unit, which
20 shall consist of the enforcement personnel of the former
21 special investigations division and civilian personnel as may
22 be assigned by the secretary or by the governor pursuant to an
23 executive order as authorized in the Department of Public
24 Safety Act. The unit is responsible for the enforcement of the
25 New Mexico Bingo and Raffle Act and the Liquor Control Act;

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1 (2) the training and recruiting bureau, which
2 shall consist of the personnel of the New Mexico state police
3 training division and all civilian personnel and functions of
4 the department as the secretary may transfer to the bureau;

5 (3) the motor transportation police bureau,
6 which shall consist of the enforcement and civilian personnel
7 of the former motor transportation division. The bureau is
8 responsible for enforcing the Motor Carrier Act, the Motor
9 Transportation Act, the Motor Vehicle Code and the Criminal
10 Code; and

11 (4) civilian employees of the former motor
12 transportation division or the former special investigations
13 division, who shall be subject to the provisions of the
14 Personnel Act.

15 C. The New Mexico law enforcement academy shall
16 consist of personnel of the New Mexico law enforcement academy
17 and such other functions as the secretary may transfer to it.

18 D. The technical support division shall consist of
19 functions such as crime laboratory and records.

20 E. The administrative services division shall
21 consist of the administrative services as the secretary deems
22 necessary.

23 F. The information technology division shall
24 consist of such functions as computer and technology support as
25 the secretary deems necessary.

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1 G. The homeland security and emergency management
2 division, unless otherwise directed by the secretary, shall
3 consist of functions formerly exercised by the homeland
4 security and emergency management department, including:

5 (1) coordinating the homeland security and
6 emergency management efforts of all state and local government
7 agencies, as well as enlisting cooperation from private
8 entities such as health care providers;

9 (2) applying for and accepting federal funds
10 for homeland security, administering the funds and developing
11 criteria to allocate grants to local governments, tribes, state
12 agencies and other qualified entities;

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

16 (4) providing information to the general
17 public and to private businesses that is essential to ensuring
18 their safety and security and providing the governor with
19 timely information relating to emergencies, disasters and acts
20 of terrorism or terrorist threats;

21 (5) establishing security standards for state
22 facilities and for protection of their occupants and developing
23 plans for the continuity of state government operations in the
24 event of a threat or act of terrorism or other man-made or
25 natural disaster;

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1 (6) identifying the state's critical
2 infrastructures and assisting public and private entities with
3 developing plans and procedures designed to implement the
4 protective actions necessary to continue operations;

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

8 (8) coordinating law enforcement
9 counterterrorism prevention, preparedness and response training
10 on a statewide basis, including training for emergency
11 responders, government officials, health care providers and
12 others as appropriate;

13 (9) working with emergency response and
14 emergency management programs and providing assistance in
15 developing and conducting terrorism response exercises for
16 emergency responders, government officials, health care
17 providers and others;

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

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

25 (12) performing such other duties relating to

1 homeland security as may be assigned by the governor."

2 SECTION 6. A new section of the Department of Public
3 Safety Act is enacted to read:

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

6 A. The department is authorized to cooperate with
7 the federal government in the administration of homeland
8 security and emergency management programs in which financial
9 or other participation by the federal government is authorized
10 or mandated under state or federal laws, rules or orders. The
11 department may enter into agreements with agencies of the
12 federal government to implement homeland security and emergency
13 management programs subject to availability of appropriated
14 state funds and any provisions of state laws applicable to such
15 agreements or participation by the state.

16 B. The governor may by appropriate order designate
17 the department as the single state agency for the
18 administration of any homeland security or emergency management
19 program when that designation is a condition of federal
20 financial or other participation in the program under
21 applicable federal law, rule or order. Whether or not a
22 federal condition exists, the governor may designate the
23 department as the single state agency for the administration of
24 any homeland security or emergency management program. No
25 designation of a single state agency under the authority

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1 granted in this section shall be made in contravention of state
2 law."

3 SECTION 7. Section 12-10-3 NMSA 1978 (being Laws 1969,
4 Chapter 33, Section 1, as amended) is amended to read:

5 "12-10-3. EMERGENCY PLANNING AND COORDINATION.--The
6 [~~state~~] director of the homeland security and emergency
7 management division of the department of public safety shall be
8 responsible for carrying out the program for all hazard
9 emergency management authorized by law and shall serve as the
10 governor's authorized representative at the discretion of the
11 governor. The [~~state~~] director shall direct and coordinate the
12 all hazard emergency management activities of all state
13 departments, agencies and political subdivisions and shall
14 maintain liaison with and cooperate with all hazard emergency
15 management agencies and organizations of other states and of
16 the federal government."

17 SECTION 8. Section 12-10-4 NMSA 1978 (being Laws 1959,
18 Chapter 190, Section 5, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

19 **SECTION 9.** Section 12-10-5 NMSA 1978 (being Laws 1959,
20 Chapter 190, Section 6, as amended) is amended to read:

21 "12-10-5. LOCAL EMERGENCY MANAGEMENT.--The governing
22 bodies of the political subdivisions of the state are
23 responsible for the all hazard emergency management of their
24 respective jurisdictions. Each political subdivision is
25 authorized to establish, by ordinance or resolution, a local

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1 office of emergency management as an agency of the local
2 government and responsible to the governing body, in accordance
3 with the state emergency operations plan and program. Every
4 local coordinator of emergency management shall be appointed by
5 the governing body, subject to the approval of the ~~[state]~~
6 director of the homeland security and emergency management
7 division of the department of public safety, and the local
8 coordinator shall have direct responsibility for carrying out
9 the all hazard emergency management program of the political
10 subdivision. The ~~[state]~~ director shall coordinate the
11 emergency management activities of all local governmental
12 departments and agencies and shall maintain liaison with and
13 cooperate with emergency management agencies and organizations
14 of other political subdivisions and of the state government.
15 Each local organization shall perform emergency management
16 functions within the territorial limits of the political
17 subdivision within which it is organized."

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

20 "12-10-6. MUTUAL AID AGREEMENTS.--Each political
21 subdivision may, in cooperation with other public and private
22 agencies within the state, enter into mutual aid agreements for
23 reciprocal emergency management aid and assistance. The
24 agreements shall be consistent with the state emergency
25 operations plan, and in time of emergency it shall be the duty

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

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

8 "12-10-9. EXISTING SERVICES AND FACILITIES TO BE USED BY
9 AGENCY.--The governor, the [~~homeland security and emergency~~
10 ~~management~~] department of public safety and the governing
11 bodies of the political subdivisions of the state are directed
12 to use, in carrying out the provisions of the All Hazard
13 Emergency Management Act, the services, equipment, supplies and
14 facilities of existing departments, offices and agencies of the
15 state and its political subdivisions to the maximum extent
16 practicable, and the officers and personnel of all departments,
17 offices and agencies of the state and its political
18 subdivisions are directed to cooperate with and extend their
19 services and facilities to the governor or to the department or
20 to the local coordinators of all hazard emergency management
21 throughout the state upon request."

22 SECTION 12. Section 12-10-10 NMSA 1978 (being Laws 1959,
23 Chapter 190, Section 10, as amended) is amended to read:

24 "12-10-10. ENFORCEMENT OF EXECUTIVE ORDERS AND RULES.--

25 A. It is the duty of all political subdivisions of

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1 the state and their coordinators of the all hazard emergency
2 management programs appointed pursuant to the provisions of the
3 All Hazard Emergency Management Act to comply with and enforce
4 all executive orders and rules made by the governor or under
5 the governor's authority pursuant to law.

6 B. Political subdivisions shall meet all state and
7 federal requirements before becoming eligible to participate in
8 state and federal all hazard emergency management assistance
9 programs. They must comply with all state and federal rules
10 and procedures and shall be removed from participation in the
11 assistance programs by the [~~state~~] director of the homeland
12 security and emergency management division of the department of
13 public safety for failure to comply with the rules and
14 procedures or to maintain their eligibility in accordance with
15 prescribed requirements."

16 SECTION 13. Section 12-10-11 NMSA 1978 (being Laws 2002,
17 Chapter 83, Section 2, as amended) is amended to read:

18 "12-10-11. OUT-OF-STATE LICENSE HOLDERS--POWERS--
19 DUTIES.--During an emergency, a person who holds a license,
20 certificate or other permit that is issued by a state or
21 territory of the United States and that evidences the meeting
22 of qualifications for professional, mechanical or other skills
23 may be credentialed, if appropriate and approved by the
24 department of health or the [~~homeland security and emergency~~
25 ~~management~~] department of public safety, to render aid

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1 involving those skills to meet an emergency, subject to
2 limitations and conditions as the governor may prescribe by
3 executive order or otherwise. A person shall be considered a
4 public employee for the purposes of the Tort Claims Act when
5 approved to perform those duties."

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

8 "12-10-13. IN-STATE LICENSE HOLDERS--POWERS--DUTIES.--
9 During an emergency, a person who holds a license, certificate
10 or other permit that is issued by the state and that evidences
11 the meeting of qualifications for professional, mechanical or
12 other skills may be credentialed, if appropriate and approved
13 by the department of health or the [~~homeland security and~~
14 ~~emergency management~~] department of public safety, to render
15 aid involving those skills to meet a declared emergency, and
16 shall be considered a public employee for the purposes of the
17 Tort Claims Act when approved to perform those duties."

18 SECTION 15. Section 12-10A-3 NMSA 1978 (being Laws 2003,
19 Chapter 218, Section 3, as amended) is amended to read:

20 "12-10A-3. DEFINITIONS.--As used in the Public Health
21 Emergency Response Act:

22 A. "attorney general" means the New Mexico attorney
23 general;

24 B. "court" means the district court for the
25 judicial district where a public health emergency is occurring,

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1 the district court for Santa Fe county or, in the event that a
2 district court cannot adequately provide services, a district
3 court designated by the New Mexico supreme court;

4 C. "director" [~~or "state director"~~] means the
5 [~~state~~] director of the homeland security and emergency
6 management division of the department of public safety or the
7 [~~state~~] director's designee;

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

12 E. "health facility" means:

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

15 (2) a nonfederal facility or building, whether
16 public or private, for-profit or nonprofit, that is used,
17 operated or designed to provide health services, medical
18 treatment, nursing services, rehabilitative services or
19 preventive care;

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

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

24 (a) laboratories;

25 (b) research facilities;

- 1 (c) pharmacies;
2 (d) laundry facilities;
3 (e) health personnel training and
4 lodging facilities;
5 (f) patient, guest and health personnel
6 food service facilities; and
7 (g) offices or office buildings used by
8 persons engaged in health care professions or services;

9 F. "isolation" means the physical separation for
10 possible medical care of persons who are infected or who are
11 reasonably believed to be infected with a threatening
12 communicable disease or potential threatening communicable
13 disease from non-isolated persons, to protect against the
14 transmission of the threatening communicable disease to
15 non-isolated persons;

16 G. "public health emergency" means the occurrence
17 or imminent threat of exposure to an extremely dangerous
18 condition or a highly infectious or toxic agent, including a
19 threatening communicable disease, that poses an imminent threat
20 of substantial harm to the population of New Mexico or any
21 portion thereof;

22 H. "public health official" means the secretary of
23 health or the secretary's designee, including a qualified
24 public individual or group or a qualified private individual or
25 group, as determined by the secretary of health;

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1 I. "quarantine" means the precautionary physical
2 separation of persons who have or may have been exposed to a
3 threatening communicable disease or a potentially threatening
4 communicable disease and who do not show signs or symptoms of a
5 threatening communicable disease, from non-quarantined persons,
6 to protect against the transmission of the disease to non-
7 quarantined persons;

8 J. "secretary of health" means the secretary of
9 health or the secretary's designee;

10 K. "secretary of public safety" means the secretary
11 of public safety or the secretary's designee; and

12 L. "threatening communicable disease" means a
13 disease that causes death or great bodily harm that passes from
14 one person to another and for which there are no means by which
15 the public can reasonably avoid the risk of contracting the
16 disease. "Threatening communicable disease" does not include
17 acquired immune deficiency syndrome or other infections caused
18 by the human immunodeficiency virus."

19 SECTION 16. Section 12-10A-17 NMSA 1978 (being Laws 2003,
20 Chapter 218, Section 17, as amended) is amended to read:

21 "12-10A-17. RULEMAKING.--The secretary of public safety,
22 the secretary of health, the [~~state~~] director and, where
23 appropriate, other affected state agencies in consultation with
24 the secretaries and [~~state~~] director, shall promulgate and
25 implement rules that are reasonable and necessary to implement

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1 and effectuate the Public Health Emergency Response Act."

2 SECTION 17. Section 12-10D-1 NMSA 1978 (being Laws 2009,
3 Chapter 111, Section 1) is amended to read:

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

7 SECTION 18. Section 12-10D-2 NMSA 1978 (being Laws 2009,
8 Chapter 111, Section 2) is amended to read:

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

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

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

16 (1) a law enforcement officer;

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

19 (3) an emergency medical services provider;

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

24 D. "interoperability" means coordination of
25 critical information communication systems or networks,

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1 including radio and emergency coordination information
2 equipment, that are consistently operable with all relevant
3 local, state, tribal and federal agencies and first
4 responders."

5 SECTION 19. Section 12-10D-3 NMSA 1978 (being Laws 2009,
6 Chapter 111, Section 3) is amended to read:

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

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

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

16 C. The commission consists of twelve members,
17 including:

18 (1) the lieutenant governor;

19 (2) the director of the homeland security
20 ~~[advisor]~~ and emergency management division of the department;

21 (3) the secretary of information technology or
22 the secretary's designee;

23 (4) the adjutant general or a representative
24 from the department of military affairs;

25 (5) the secretary of energy, minerals and

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1 natural resources or the secretary's designee;

2 (6) the state fire marshal or the fire
3 marshal's designee;

4 (7) the secretary of Indian affairs or the
5 secretary's designee;

6 (8) the secretary of transportation or the
7 secretary's designee;

8 (9) the secretary of health or the secretary's
9 designee;

10 (10) the secretary of public safety or the
11 secretary's designee;

12 (11) the executive director of the New Mexico
13 municipal league or the executive director's designee; and

14 (12) the executive director of the New Mexico
15 association of counties or the executive director's designee.

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

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

24 **SECTION 20.** Section 12-12-19 NMSA 1978 (being Laws 1983,
25 Chapter 80, Section 3, as amended) is amended to read:

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- 1 "12-12-19. DEFINITIONS.--As used in the Hazardous
2 Materials Emergency Response Act:
- 3 A. "accident" means an event involving hazardous
4 materials that may cause injury to persons or damage to
5 property or release hazardous materials to the environment;
- 6 B. "administrator" means the hazardous materials
7 emergency response administrator;
- 8 C. "board" means the hazardous materials safety
9 board;
- 10 D. "chief" means the chief of the New Mexico state
11 police;
- 12 E. "commission" means the state emergency response
13 commission;
- 14 F. "department" means the [~~homeland security and~~
15 ~~emergency management~~] department of public safety;
- 16 G. "director" means the director of the division;
- 17 H. "division" means the homeland security and
18 emergency management division of the department;
- 19 [~~G.~~] I. "emergency management" means the ability to
20 prepare for, respond to, mitigate, recover and restore the
21 scene of an institutional, industrial, transportation or other
22 accident;
- 23 [~~H.~~] J. "first responder" means the first law
24 enforcement officer or other public service provider with a
25 radio-equipped vehicle to arrive at the scene of an accident;

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1 [~~F.~~] K. "hazardous materials" means hazardous
2 substances, radioactive materials or a combination of hazardous
3 substances and radioactive materials;

4 [~~J.~~] L. "hazardous substances" means flammable
5 solids, semisolids, liquids or gases; poisons; corrosives;
6 explosives; compressed gases; reactive or toxic chemicals;
7 irritants; or biological agents, but does not include
8 radioactive materials;

9 [~~K.~~] M. "orphan hazardous materials" means
10 hazardous substances, radioactive materials, a combination of
11 hazardous substances and radioactive materials or substances
12 used in the manufacture of controlled substances in violation
13 of the Controlled Substances Act where an owner of the
14 substances or materials cannot be identified;

15 [~~L.~~] N. "plan" means the statewide hazardous
16 materials emergency response plan;

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

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1 [~~N-~~] P. "responsible state agency" means an agency
2 designated in Subsection D of Section 12-12-21 NMSA 1978 with
3 responsibility for managing a certain type of accident or
4 performing certain functions at the scene of such accident [~~and~~

5 ~~0. "secretary" or "state director" means the state~~
6 ~~director of homeland security and emergency management]."~~

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

11 "12-12-21. STATE POLICE EMERGENCY RESPONSE OFFICER--
12 PROCEDURE FOR NOTIFICATION--COOPERATION OF OTHER STATE AGENCIES
13 AND LOCAL GOVERNMENTS.--

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

19 B. The chief shall designate one or more persons to
20 be known as "state police emergency response officers". A
21 state police emergency response officer shall be trained in
22 accident evaluation and emergency response and shall be
23 available to answer an emergency response call from the first
24 responder.

25 C. In the event of an accident, if the first

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

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

13 (2) instruct the first responder on how to
14 proceed at the accident scene;

15 (3) immediately notify the ~~[state]~~ director
16 and the appropriate responsible state agency and advise it of
17 the necessary response;

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

20 (5) coordinate field communications and summon
21 additional resources requested by the emergency management
22 team.

23 D. The responsible state agencies shall be:

24 (1) the New Mexico state police division of
25 the department ~~[of public safety]~~ for coordination, law

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1 enforcement and traffic and crowd control;

2 (2) the department of environment for
3 assistance with accidents involving hazardous materials or
4 hazardous substances;

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

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

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

16 (6) the department of transportation for
17 assistance with road closures, designating alternate routes and
18 related services.

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

21 F. Any driver of a vehicle carrying hazardous
22 materials involved in an accident that may cause injury to
23 persons or property or any owner, shipper or carrier of
24 hazardous materials involved in an accident who has knowledge
25 of such accident or any owner or person in charge of any

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1 building, premises or facility where such an accident occurs
2 shall immediately notify the New Mexico state police division
3 of the department [~~of public safety~~] by the quickest means of
4 communication available."

5 SECTION 22. Section 12-12-23 NMSA 1978 (being Laws 1984,
6 Chapter 41, Section 6, as amended) is amended to read:

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

13 SECTION 23. Section 12-12A-1 NMSA 1978 (being Laws 2008,
14 Chapter 47, Section 1) is amended to read:

15 "12-12A-1. SHORT TITLE.--[~~This act~~] Chapter 12, Article
16 12A NMSA 1978 may be cited as the "Uniform Emergency Volunteer
17 Health Practitioners Act".

18 SECTION 24. Section 12-12A-2 NMSA 1978 (being Laws 2008,
19 Chapter 47, Section 2) is amended to read:

20 "12-12A-2. DEFINITIONS.--As used in the Uniform Emergency
21 Volunteer Health Practitioners Act:

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

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1 (1) is designated or recognized as a provider
2 of those services pursuant to a disaster response and recovery
3 plan adopted by an agency of the federal government or the
4 [~~homeland security and emergency management~~] department of of
5 public safety; or

6 (2) regularly plans and conducts its
7 activities in coordination with an agency of the federal
8 government or the [~~homeland security and emergency management~~]
9 department of public safety;

10 B. "division" means the homeland security and
11 emergency management division of the department of public
12 safety;

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

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

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

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

25 [~~F-~~] G. "health facility" means an entity licensed

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

3 ~~[G.]~~ H. "health practitioner" means an individual
4 licensed pursuant to the laws of this or another state to
5 provide health or veterinary services;

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

11 (1) the following, concerning the physical or
12 mental condition or functional status of an individual or
13 affecting the structure or function of the body:

14 (a) preventive, diagnostic, therapeutic,
15 rehabilitative, maintenance or palliative care; and

16 (b) counseling, assessment, procedures
17 or other services;

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

21 (3) funeral, cremation, cemetery or other
22 mortuary services;

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

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1 ~~[J-]~~ K. "license" means authorization by a state to
2 engage in health or veterinary services that are unlawful
3 without the authorization. "License" includes authorization
4 pursuant to the laws of this state to an individual to provide
5 health or veterinary services based upon a national
6 certification issued by a public or private entity;

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

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

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

22 ~~[N-]~~ O. "veterinary services" means the provision
23 of treatment, care, advice or guidance, or other services or
24 supplies, related to the health or death of an animal or to
25 animal populations, to the extent necessary to respond to an

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1 emergency, including:

2 (1) the diagnosis, treatment or prevention of
3 an animal disease, injury or other physical or mental condition
4 by the prescription, administration or dispensing of a vaccine,
5 medicine, surgery or therapy;

6 (2) the use of a procedure for reproductive
7 management; and

8 (3) the monitoring and treatment of animal
9 populations for diseases that have spread or demonstrate the
10 potential to spread to humans; and

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

22 SECTION 25. Section 12-12A-4 NMSA 1978 (being Laws 2008,
23 Chapter 47, Section 4) is amended to read:

24 "12-12A-4. REGULATION OF SERVICES DURING EMERGENCY.--

25 A. While an emergency declaration is in effect, the

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1 ~~[homeland security and emergency management department]~~

2 division may limit, restrict or otherwise regulate:

3 (1) the duration of practice by volunteer
4 health practitioners;

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

7 (3) the types of volunteer health
8 practitioners who may practice; and

9 (4) any other matters necessary to coordinate
10 effectively the provision of health or veterinary services
11 during the emergency.

12 B. An order issued pursuant to Subsection A of this
13 section may take effect immediately, without prior notice or
14 comment.

15 C. A host entity that uses volunteer health
16 practitioners to provide health or veterinary services in this
17 state shall:

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

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

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1 Emergency Management Act."

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

4 "12-12A-5. VOLUNTEER HEALTH PRACTITIONER REGISTRATION
5 SYSTEMS.--

6 A. To qualify as a volunteer health practitioner
7 registration system, a system shall:

8 (1) accept applications for the registration
9 of volunteer health practitioners before or during an
10 emergency;

11 (2) include information about the licensure
12 and good standing of health practitioners that is accessible by
13 authorized persons;

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

19 (4) meet one of the following conditions:

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

25 (b) be a local unit consisting of

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1 trained and equipped emergency response, public health and
2 medical personnel formed pursuant to Section 2801 of the Public
3 Health Service Act, 42 U.S.C. Section 300hh, as amended;

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

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

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

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1 C. Upon request of a person in this state
2 authorized pursuant to Subsection B of this section or a
3 similarly authorized person in another state, a registration
4 system located in this state shall notify the person of the
5 identities of volunteer health practitioners and whether the
6 volunteer health practitioners are licensed and in good
7 standing.

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

13 **SECTION 27.** Section 12-12A-8 NMSA 1978 (being Laws 2008,
14 Chapter 47, Section 8) is amended to read:

15 "12-12A-8. PROVISION OF VOLUNTEER HEALTH OR VETERINARY
16 SERVICES--ADMINISTRATIVE SANCTIONS.--

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

22 B. Except as otherwise provided in Subsection C of
23 this section, the Uniform Emergency Volunteer Health
24 Practitioners Act does not authorize a volunteer health
25 practitioner to provide services that are outside the volunteer

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1 health practitioner's scope of practice, even if a similarly
2 licensed practitioner in this state would be permitted to
3 provide the services.

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

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

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

24 (1) the volunteer health practitioner knows
25 the limitation, modification or restriction exists or that a

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1 similarly licensed practitioner in this state would not be
2 permitted to provide the service; or

3 (2) from all the facts and circumstances known
4 to the volunteer health practitioner at the relevant time, a
5 reasonable person would conclude that the limitation,
6 modification or restriction exists or that a similarly licensed
7 practitioner in this state would not be permitted to provide
8 the service.

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

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

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

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

25 G. In determining whether to impose administrative

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1 sanctions pursuant to Subsection F of this section, a licensing
2 board or other disciplinary authority shall consider the
3 circumstances in which the conduct took place, including any
4 exigent circumstances, and the health practitioner's scope of
5 practice, education, training, experience and specialized
6 skill."

7 SECTION 28. Section 12-12A-9 NMSA 1978 (being Laws 2008,
8 Chapter 47, Section 9) is amended to read:

9 "12-12A-9. RELATION TO OTHER LAWS.--

10 A. The Uniform Emergency Volunteer Health
11 Practitioners Act does not limit rights, privileges or
12 immunities provided to volunteer health practitioners by laws
13 other than the Uniform Emergency Volunteer Health Practitioners
14 Act. Except as otherwise provided in Subsection B of this
15 section, the Uniform Emergency Volunteer Health Practitioners
16 Act does not affect requirements for the use of health
17 practitioners pursuant to the Emergency Management Assistance
18 Compact.

19 B. The [~~homeland security and emergency management~~
20 ~~department~~] division, pursuant to the provisions of the
21 Emergency Management Assistance Compact, may incorporate into
22 the emergency forces of this state volunteer health
23 practitioners who are not officers or employees of this state,
24 a political subdivision of this state or a municipality or
25 other local government within this state."

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1 SECTION 29. Section 12-12A-10 NMSA 1978 (being Laws 2008,
2 Chapter 47, Section 10) is amended to read:

3 "12-12A-10. REGULATORY AUTHORITY.--The [~~homeland security~~
4 ~~and emergency management department~~] division may promulgate
5 rules to implement the Uniform Emergency Volunteer Health
6 Practitioners Act. In doing so, the [~~homeland security and~~
7 ~~emergency management department~~] division shall consult with
8 and consider the recommendations of the entity established to
9 coordinate the implementation of the Emergency Management
10 Assistance Compact and shall also consult with and consider
11 rules promulgated by similarly empowered agencies in other
12 states to promote uniformity of application of the Uniform
13 Emergency Volunteer Health Practitioners Act and make the
14 emergency response systems in the various states reasonably
15 compatible."

16 SECTION 30. Section 12-12B-4 NMSA 1978 (being Laws 2011,
17 Chapter 104, Section 4) is amended to read:

18 "12-12B-4. DECLARATION OF EMERGENCY OR DISASTER--
19 EMPLOYMENT OF GAS PILOT RELIGHTING TECHNICIANS--
20 REIMBURSEMENT.--

21 A. Upon a declaration by the governor of an
22 emergency or disaster, a person certified as a journeyman
23 plumber or journeyman gas fitter pursuant to the Construction
24 Industries Licensing Act may employ no more than five gas pilot
25 relighting technicians during the period of the declared

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1 emergency or disaster.

2 B. A gas pilot relighting technician employed by a
3 journeyman plumber or journeyman gas fitter pursuant to
4 Subsection A of this section shall be an employee of the
5 journeyman plumber or journeyman gas fitter and shall be
6 covered by liability insurance provided by the journeyman
7 plumber or journeyman gas fitter.

8 C. The duties of a gas pilot relighting technician
9 employed by a journeyman plumber or journeyman gas fitter
10 pursuant to Subsection A of this section shall be limited to
11 work directly related to the relighting of pilot lights for
12 residential equipment and appliances serving residences with
13 not more than four dwelling units.

14 D. If authorized in the declaration of emergency or
15 disaster issued by the governor and subject to funds being made
16 available pursuant to such a declaration, the [~~secretary~~]
17 director of the homeland security and emergency management
18 division of the department of public safety may adopt rules
19 permitting state funds to be used to pay the cost of journeyman
20 plumbers, journeyman gas fitters or gas pilot relighting
21 technicians for services rendered during the declared period of
22 the emergency or disaster to restore natural gas service to
23 residences within the area covered by the declaration of
24 emergency or disaster."

25 SECTION 31. Section 15-8-6 NMSA 1978 (being Laws 1994,

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1 Chapter 119, Section 6, as amended) is amended to read:

2 "15-8-6. STATE VEHICLES--USE--MARKINGS--STATE GOVERNMENT
3 PLATES.--

4 A. The division shall adopt rules governing the use
5 of vehicles used by state agencies or by other persons pursuant
6 to Subsection I of this section, including driver requirements
7 and responsibilities, under what circumstances someone can be
8 assigned a state vehicle on a permanent or semipermanent basis
9 and when custody of a state vehicle can be vested in another
10 state agency.

11 B. The division may determine that it is
12 impractical to retain custody of certain state vehicles, and it
13 may provide that custody reside in another state agency in the
14 following cases:

15 (1) the state vehicle is used for emergency or
16 law enforcement purposes; or

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

22 C. Except as provided in Subsections F, G and H of
23 this section, all state vehicles shall be marked as state
24 vehicles. Each side of the vehicle shall be marked, in letters
25 not less than two inches in height, with the following

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1 designation of ownership: "State of New Mexico,
2 Department" or "State of New Mexico Department of"
3 and naming the department using the vehicle.

4 D. Except as provided in Subsections F, G and H of
5 this section, all state vehicles shall have specially designed
6 government registration plates.

7 E. Except as provided in Subsections F, G and H of
8 this section, all state vehicles owned or in the custody of
9 state agencies that have law enforcement functions shall be
10 marked and have state government registration plates.

11 F. State vehicles used for legitimate undercover
12 law enforcement purposes are exempt from the requirements of
13 Subsections C, D and E of this section and may be issued an
14 undercover license plate when it is determined by the division
15 that issuance of such a license plate is necessary to protect
16 legitimate undercover law enforcement activities.

17 G. State vehicles used for sensitive activities
18 other than legitimate undercover law enforcement purposes are
19 exempt from the requirements of Subsections C, D and E of this
20 section and may be issued a protective license plate when it is
21 determined by the division that issuance of such a license
22 plate is necessary to protect the health, safety or welfare of
23 a state employee using a state-owned vehicle for sensitive
24 activities. The standards for the issuance of a protective
25 license plate pursuant to this subsection shall be determined

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1 by rule jointly promulgated by the division and the motor
2 vehicle division of the taxation and revenue department.

3 H. A state agency may seek custody of state
4 vehicles as an exception to Subsection B of this section or an
5 exemption to the provisions of Subsection C of this section by
6 making a written request to the director, specifying the
7 reasons for the proposed custody or exemption. The director
8 may approve the custody or exemption, in writing, indicating
9 the duration and any conditions of the custody or exemption.

10 I. The division shall adopt rules permitting
11 individuals enrolled in the state's adaptive driving program to
12 use special-use state vehicles for evaluation and training
13 purposes in that program."

14 SECTION 32. Section 74-4E-3 NMSA 1978 (being Laws 1989,
15 Chapter 149, Section 3, as amended) is amended to read:

16 "74-4E-3. DEFINITIONS.--As used in the Hazardous
17 Chemicals Information Act:

18 A. "commission" means the state emergency response
19 commission;

20 B. "department" means the homeland security and
21 emergency management division of the department of public
22 safety;

23 C. "emergency responder" means any law enforcement
24 officer, firefighter, medical services professional or other
25 person trained and equipped to respond to hazardous chemical

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1 releases;

2 D. "hazardous chemical" means any hazardous
3 chemical, extremely hazardous substance, toxic chemical or
4 hazardous material as defined by Title 3;

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

13 F. "local emergency planning committee" means any
14 local group appointed by the commission to undertake chemical
15 release contingency planning;

16 G. "release" means any spilling, leaking, pumping,
17 pouring, emitting, emptying, discharging, injecting, escaping,
18 leaching, dumping or disposing into the environment of any
19 hazardous chemical, extremely hazardous substance or toxic
20 chemical. "Release" includes the abandonment or discarding of
21 barrels, containers and other closed receptacles; and

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

24 SECTION 33. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
25 APPROPRIATIONS AND PROPERTY--CONTRACTUAL OBLIGATIONS--STATUTORY

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1 REFERENCES.--

2 A. All functions, personnel, appropriations, money,
3 records, furniture, equipment and other property of the
4 homeland security and emergency management department are
5 transferred to the department of public safety.

6 B. Contractual obligations of the homeland security
7 and emergency management department are binding on the
8 department of public safety.

9 C. All references in the law to the homeland
10 security and emergency management department shall be deemed to
11 be references to the homeland security and emergency management
12 division of the department of public safety. All references in
13 the law to the state director of homeland security and
14 emergency management or to the secretary of homeland security
15 and emergency management shall be deemed to be references to
16 the director of the homeland security and emergency management
17 division of the department of public safety or to the secretary
18 of public safety.

19 SECTION 34. REPEAL.--Sections 9-28-1 through 9-28-7 NMSA
20 1978 (being Laws 2007, Chapter 291, Sections 1 through 6 and
21 35, as amended) are repealed.

22 SECTION 35. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2017.