

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BILL

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

INTRODUCED BY

DISCUSSION DRAFT

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; MERGING THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT WITH THE DEPARTMENT OF PUBLIC SAFETY; TRANSFERRING THE ADMINISTRATION OF THE ENHANCED 911 SERVICE PROGRAM TO THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY; REQUIRING THE DEPARTMENT OF INFORMATION TECHNOLOGY TO PROVIDE INFRASTRUCTURE FOR ENHANCED 911 SERVICES; TRANSFERRING THE FIRE MARSHAL DIVISION OF THE PUBLIC REGULATION COMMISSION TO THE DEPARTMENT OF PUBLIC SAFETY; TRANSFERRING THE MOTOR TRANSPORTATION DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF TRANSPORTATION; PROVIDING FOR TRANSFERS OF FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND REFERENCES; REPEALING THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT ACT; AMENDING, REPEALING, RECOMPILING AND ENACTING SECTIONS OF THE NMSA 1978; RECONCILING

.182722.3

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

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

1 MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF LAWS IN LAWS 2003,
2 LAWS 2007 AND LAWS 2009.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

10 A. For the purpose of minimizing or eliminating
11 damage from floods or mudslides in federal emergency management
12 agency and locally designated flood-prone areas and for the
13 purpose of promoting health, safety and the general welfare, a
14 county or municipality with identified flood or mudslide hazard
15 areas shall by ordinance:

16 (1) designate and regulate flood plain areas
17 having special flood or mudslide hazards;

18 (2) prescribe standards for constructing,
19 altering, installing or repairing buildings and other
20 improvements under a permit system within a designated flood or
21 mudslide hazard area;

22 (3) require review by the local flood plain
23 manager for development within a designated flood or mudslide
24 hazard area; provided that final decisions are approved by the
25 local governing body;

.182722.3

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

1 (4) review subdivision proposals and other new
2 developments within a designated flood or mudslide hazard area
3 to ensure that:

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

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

9 (c) adequate drainage is provided so as
10 to reduce exposure to flood hazards;

11 (5) require new or replacement water supply
12 systems or sanitary sewage systems within a designated flood or
13 mudslide hazard area to be designed to minimize or eliminate
14 infiltration of flood waters into the systems and discharges
15 from the systems into flood waters and require on-site waste
16 disposal systems to be located so as to avoid impairment of
17 them or contamination from them during flooding; and

18 (6) designate and regulate floodways for the
19 passage of flood waters.

20 B. A flood plain ordinance adopted pursuant to this
21 section shall substantially conform to the minimum standards
22 prescribed by the federal insurance administration, regulation
23 1910 issued pursuant to Subsection 7(d), 79 Stat. 670, Section
24 1361, 82 Stat. 587 and 82 Stat. 575, all as amended.

25 C. A county or municipality that enacts a flood

.182722.3

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

1 plain ordinance shall designate a person, certified pursuant to
2 the state-certified flood plain manager program, as the flood
3 plain manager to administer the flood plain ordinance.

4 D. A county or municipality that has areas
5 designated by the federal emergency management agency and the
6 county or municipality as flood-prone shall participate in the
7 national flood insurance program.

8 E. A county or municipality shall have exclusive
9 jurisdiction over flood plain permits issued under its
10 respective flood plain ordinance in accordance with this
11 section and so long as all structures built in flood plains are
12 subject to inspection and approval pursuant to the Construction
13 Industries Licensing Act. Notwithstanding Section 3-18-6 NMSA
14 1978, when a municipality adopts a flood plain ordinance
15 pursuant to Paragraph (2) of Subsection A of this section, the
16 municipality's jurisdiction under the flood plain ordinance may
17 take precedence over a respective county flood plain ordinance
18 within the municipality's boundary and within the
19 municipality's subdividing and platting jurisdiction.

20 F. A county or municipality shall designate flood
21 plain areas having special flood or mudslide hazards in
22 substantial conformity with areas identified as flood- or
23 mudslide-prone by the federal insurance administration pursuant
24 to the national flood insurance program and may designate areas
25 as flood- or mudslide-prone that may not be so identified by

.182722.3

underscored material = new
[bracketed material] = delete

1 the federal insurance administration.

2 G. A municipality or county adopting a flood plain
3 ordinance pursuant to this section may enter into reciprocal
4 agreements with any agency of the state, other political
5 subdivisions or the federal government in order to effectively
6 carry out the provisions of this section.

7 H. The homeland security and emergency management
8 division of the department of public safety is designated as
9 the state coordinating agency for the national flood insurance
10 program and may assist counties or municipalities when
11 requested by a county or municipality to provide technical
12 advice and assistance."

13 SECTION 2. Section 7-15A-14 NMSA 1978 (being Laws 2003
14 (1st S.S.), Chapter 3, Section 8, as amended) is amended to
15 read:

16 "7-15A-14. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT
17 FUND.--The "weight distance tax identification permit fund" is
18 created in the state treasury. The purpose of the fund is to
19 provide an account from which the department may pay the costs
20 of issuing and administering weight distance tax identification
21 permits and of enforcing weight distance tax identification
22 permit use. The fund shall consist of administrative fees
23 collected pursuant to the Weight Distance Tax Act. Money in
24 the fund shall be appropriated to the department to pay for the
25 cost of issuance and administration of weight distance tax

.182722.3

underscoring material = new
[bracketed material] = delete

1 identification permits and of enforcement by the department or
2 the motor transportation division of the department of [~~public~~
3 ~~safety~~] transportation of weight distance tax identification
4 permit use for motor carriers that do not comply with the
5 provisions of the Weight Distance Tax Act. Disbursements from
6 the fund shall be by warrant of the secretary of finance and
7 administration upon vouchers signed by the secretary or the
8 secretary's authorized representative. Money in the fund shall
9 not revert to the general fund at the end of a fiscal year."

10 SECTION 3. Section 8-8-6 NMSA 1978 (being Laws 1998,
11 Chapter 108, Section 6, as amended) is amended to read:

12 "8-8-6. COMMISSION--DIVISIONS.--The commission shall
13 include the following organizational units:

- 14 A. the administrative services division;
- 15 B. the consumer relations division;
- 16 C. the insurance division;
- 17 D. the legal division;
- 18 E. the transportation division; and
- 19 F. the utility division [~~and~~
- 20 ~~G. the fire marshal division~~]."

21 SECTION 4. Section 9-15-48 NMSA 1978 (being Laws 2003,
22 Chapter 166, Section 1 and Laws 2003, Chapter 170, Section 1,
23 as amended) is amended to read:

24 "9-15-48. OFFICE OF MILITARY BASE PLANNING AND SUPPORT
25 CREATED--DUTIES.--

.182722.3

underscored material = new
[bracketed material] = delete

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

5 B. The ~~[governor's homeland security adviser]~~
6 director of the homeland security and emergency management
7 division of the department of public safety shall appoint a
8 director of the office of military base planning and support.

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

11 (1) employ, under the authorization of the
12 ~~[governor's homeland security adviser]~~ director of the homeland
13 security and emergency management division, the staff necessary
14 to carry out the work of the office of military base planning
15 and support and the military base planning commission;

16 (2) support the commission;

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

25 (4) serve as a liaison with the community

.182722.3

underscored material = new
[bracketed material] = delete

1 organizations whose purpose is to support the long-term
2 viability of the military bases;

3 (5) communicate with the staff of the state's
4 congressional delegation; and

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

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

11 "9-15-49. MILITARY BASE PLANNING COMMISSION CREATED--
12 COMPOSITION.--

13 A. The "military base planning commission" is
14 created, which is administratively attached to the economic
15 development department. The department shall provide
16 administrative services to the commission.

17 B. The commission consists of seventeen members,
18 fifteen of which are appointed by the governor with the advice
19 and consent of the senate. The commission shall include the
20 lieutenant governor, the ~~[governor's homeland security adviser]~~
21 director of the homeland security and emergency management
22 division of the department of public safety and appropriate
23 representatives from the counties, or adjoining counties, in
24 which military bases are located.

25 C. The governor shall appoint a chair from among

.182722.3

underscored material = new
[bracketed material] = delete

1 the members of the commission. The commission shall meet at
2 the call of the chair and shall meet not less than quarterly.
3 Members of the commission shall not be paid but shall receive
4 per diem and mileage expenses as provided in the Per Diem and
5 Mileage Act.

6 D. Notwithstanding the provisions of the Open
7 Meetings Act, meetings of the commission shall be closed to the
8 public when proprietary alternative New Mexico military base
9 realignment or closure strategies or any information regarding
10 relocation of military units is discussed.

11 E. Information developed or obtained by the
12 commission that pertains to proprietary commission strategies
13 or related to the relocation of military units shall be
14 confidential and not subject to inspection pursuant to the
15 Inspection of Public Records Act."

16 SECTION 6. Section 9-19-3 NMSA 1978 (being Laws 1987,
17 Chapter 254, Section 3, as amended) is amended to read:

18 "9-19-3. PURPOSE.--The purpose of the Department of
19 Public Safety Act is to establish a single, unified department
20 to consolidate state law enforcement and safety and homeland
21 security and emergency management functions in order to provide
22 better management, real coordination and more efficient use of
23 state resources and manpower in responding to New Mexico's
24 public safety and homeland security and emergency management
25 needs and problems and to improve the professionalism of the

.182722.3

underscored material = new
[bracketed material] = delete

1 state's law enforcement and investigative functions and
2 personnel and the state's homeland security and emergency
3 management functions and personnel."

4 SECTION 7. Section 9-19-4 NMSA 1978 (being Laws 1987,
5 Chapter 254, Section 4, as amended) is amended to read:

6 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the
7 executive branch the "department of public safety". The
8 department shall be a cabinet department and shall consist of,
9 but not be limited to, [~~five~~] six program divisions, an
10 administrative division and an information technology division
11 as follows:

- 12 A. the New Mexico state police division;
- 13 B. the special investigations division;
- 14 C. the training and recruiting division;
- 15 D. the technical support division;
- 16 E. the administrative services division;
- 17 [~~F. the motor transportation division; and~~
- 18 ~~G.~~] F. the information technology division;
- 19 G. the homeland security and emergency management
- 20 division; and
- 21 H. the fire marshal division."

22 SECTION 8. Section 9-19-7 NMSA 1978 (being Laws 1987,
23 Chapter 254, Section 7, as amended) is amended to read:

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

underscored material = new
[bracketed material] = delete

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

13 B. The New Mexico state police division shall
14 consist of the commissioned officers and civilian personnel,
15 including all communications equipment operators, of the New
16 Mexico state police uniform division and the commissioned
17 officers and civilian personnel of the New Mexico state police
18 criminal division and such other personnel as may be assigned
19 by the secretary or by the governor pursuant to an executive
20 order as authorized in the Department of Public Safety Act.

21 C. The special investigations division shall
22 consist of the enforcement personnel of the alcohol and gaming
23 division of the regulation and licensing department [of
24 ~~alcoholic beverage control~~] and such other personnel as may be
25 assigned by the secretary or by the governor pursuant to an

.182722.3

underscored material = new
[bracketed material] = delete

1 executive order as authorized in the Department of Public
2 Safety Act. The division is responsible for the enforcement of
3 the New Mexico Bingo and Raffle Act and the Liquor Control Act.

4 D. The technical support division shall consist of
5 functions such as communications, crime laboratory and records.

6 E. The training and recruiting division shall
7 consist of the personnel of the New Mexico law enforcement
8 academy, the New Mexico state police training division and all
9 other training personnel and functions of the department as the
10 secretary may transfer to this division.

11 F. The administrative services division shall
12 consist of the administrative services [~~and services divisions~~]
13 of the [~~New Mexico state police and those administrative~~
14 ~~support personnel of the other existing departments, divisions~~
15 ~~or offices as the secretary deems necessary]~~ department.

16 G. The homeland security and emergency management
17 division shall consist of functions formerly exercised by the
18 homeland security and emergency management department,
19 including:

20 (1) coordinating the homeland security and
21 emergency management efforts of all state and local government
22 agencies, as well as enlisting cooperation from private
23 entities such as health care providers;

24 (2) applying for and accepting federal funds
25 for homeland security, administering the funds and developing

.182722.3

underscored material = new
[bracketed material] = delete

1 criteria to allocate grants to local governments, tribes, state
2 agencies and other qualified entities;

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

6 (4) providing information to the general
7 public and to private businesses that is essential to ensuring
8 their safety and security and providing the governor with
9 timely information relating to emergencies, disasters and acts
10 of terrorism or terrorist threats;

11 (5) establishing security standards for state
12 facilities and for protection of their occupants and developing
13 plans for the continuity of state government operations in the
14 event of a threat or act of terrorism or other man-made or
15 natural disaster;

16 (6) identifying the state's critical
17 infrastructures and assisting public and private entities with
18 developing plans and procedures designed to implement the
19 protective actions necessary to continue operations;

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

23 (8) coordinating law enforcement
24 counterterrorism prevention, preparedness and response training
25 on a statewide basis, including training for emergency

.182722.3

underscored material = new
[bracketed material] = delete

1 responders, government officials, health care providers and
2 others as appropriate;

3 (9) working with emergency response and
4 emergency management programs and providing assistance in
5 developing and conducting terrorism response exercises for
6 emergency responders, government officials, health care
7 providers and others;

8 (10) coordinating law enforcement's and
9 emergency responders' response to an act of terrorism or a
10 terrorist threat;

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

16 (12) administering the state's enhanced 911
17 service program; and

18 (13) performing such other duties relating to
19 homeland security as may be assigned by the governor or the
20 secretary."

21 SECTION 9. A new section of the Department of Public
22 Safety Act is enacted to read:

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

25 A. The homeland security and emergency management

.182722.3

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

1 division is authorized to cooperate with the federal government
2 in the administration of homeland security and emergency
3 management programs in which financial or other participation
4 by the federal government is authorized or mandated under state
5 or federal laws, rules or orders. The division may enter into
6 agreements with agencies of the federal government to implement
7 homeland security and emergency management programs subject to
8 availability of appropriated state funds and any provisions of
9 state laws applicable to such agreements or participation by
10 the state.

11 B. The governor may by appropriate order designate
12 the homeland security and emergency management division or the
13 department as the single state agency for the administration of
14 any homeland security or emergency management program when that
15 designation is a condition of federal financial or other
16 participation in the program under applicable federal law, rule
17 or order. Whether or not a federal condition exists, the
18 governor may designate the division or the department as the
19 single state agency for the administration of any homeland
20 security or emergency management program. No designation of a
21 single state agency under the authority granted in this section
22 shall be made in contravention of state law."

23 SECTION 10. Section 10-11A-2 NMSA 1978 (being Laws 1983,
24 Chapter 263, Section 2, as amended) is amended to read:

25 "10-11A-2. DEFINITIONS.--As used in the Volunteer

.182722.3

underscored material = new
[bracketed material] = delete

1 Firefighters Retirement Act:

2 A. "association" means the public employees
3 retirement association;

4 B. "board" means the retirement board of the
5 association;

6 C. "fire department" means a fire department with
7 volunteer members that is certified by the fire marshal
8 division of the [~~public regulation commission~~] department of
9 public safety;

10 D. "fund" means the volunteer firefighters
11 retirement fund; and

12 E. "member" means a volunteer nonsalaried
13 firefighter who is listed as an active member on the rolls of a
14 fire department and whose first year of service credit was
15 accumulated during or after the year the member attained the
16 age of sixteen. A volunteer firefighter who receives
17 reimbursement for personal out-of-pocket costs shall not be
18 considered a salaried firefighter."

19 SECTION 11. Section 10-11A-6 NMSA 1978 (being Laws 1983,
20 Chapter 263, Section 6, as amended) is amended to read:

21 "10-11A-6. DETERMINATION OF SERVICE CREDIT.--

22 A. A member may claim one year of service credit
23 for each year in which a fire department certifies that the
24 member:

25 (1) attended fifty percent of all scheduled

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

1 fire drills for which the fire department held the member
2 responsible to attend;

3 (2) attended fifty percent of all scheduled
4 business meetings for which the fire department held the member
5 responsible to attend; and

6 (3) participated in at least fifty percent of
7 all emergency response calls for which the fire department held
8 the member responsible to attend.

9 B. The chief of each fire department shall submit
10 to the association by March 31 of each year documentation of
11 the qualifications of each member for the preceding calendar
12 year; provided that the chief shall:

13 (1) submit the documentation on forms provided
14 by the association;

15 (2) acknowledge the truth of the records under
16 oath before a notary public; and

17 (3) have the notarized forms signed by the
18 mayor, if distributions from the fire protection fund for the
19 fire department are made to an incorporated municipality, or
20 the chair of the county commission, if distributions from the
21 fire protection fund for the fire department are made to a
22 county fire district.

23 C. For service credit that has been earned, but not
24 credited pursuant to Subsection B of this section, a member may
25 post or adjust service credit earned for one or more calendar

.182722.3

underscored material = new
[bracketed material] = delete

1 years beginning on or after January 1, 1979; provided that the
2 member shall:

3 (1) file with the association a completed
4 "Corrected Qualification Record" or "Adjusted Qualification
5 Record" as prescribed by the board;

6 (2) acknowledge the truth of the records under
7 oath before a notary public; and

8 (3) have the notarized forms signed by the
9 mayor, if distributions from the fire protection fund for the
10 fire department are made to an incorporated municipality, or
11 the chair of the county commission, if distributions from the
12 fire protection fund for the fire department are made to a
13 county fire district.

14 D. The association may request the fire marshal
15 division of the [~~public regulation commission~~] department of
16 public safety to verify member qualifications submitted to the
17 association."

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

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

22 A. The governor shall have general direction and
23 control of the activities of the homeland security and
24 emergency management division of the department of public
25 safety and shall be responsible for carrying out the provisions

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

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

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

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

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

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

.182722.3

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

1 public health, safety and welfare;

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

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

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

19 **SECTION 13.** Section 12-10-6 NMSA 1978 (being Laws 1959,
20 Chapter 190, Section 7, as amended) is amended to read:

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

.182722.3

underscored material = new
[bracketed material] = delete

1 operations plan, and in time of emergency it shall be the duty
2 of each local emergency management organization to render
3 assistance within its capabilities and in accordance with the
4 provisions of the program and plan promulgated by the homeland
5 security and emergency management division of the department of
6 public safety."

7 SECTION 14. Section 12-10-9 NMSA 1978 (being Laws 1959,
8 Chapter 190, Section 9, as amended) is amended to read:

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

23 SECTION 15. Section 12-10-11 NMSA 1978 (being Laws 2002,
24 Chapter 83, Section 2, as amended) is amended to read:

25 "12-10-11. OUT-OF-STATE LICENSE HOLDERS--POWERS--

.182722.3

underscored material = new
[bracketed material] = delete

1 DUTIES.--During an emergency, a person who holds a license,
2 certificate or other permit that is issued by a state or
3 territory of the United States and that evidences the meeting
4 of qualifications for professional, mechanical or other skills
5 may be credentialed, if appropriate and approved by the
6 department of health or the homeland security and emergency
7 management division of the department of public safety, to
8 render aid involving those skills to meet an emergency, subject
9 to limitations and conditions as the governor may prescribe by
10 executive order or otherwise. A person shall be considered a
11 public employee for the purposes of the Tort Claims Act when
12 approved to perform those duties."

13 SECTION 16. Section 12-10-13 NMSA 1978 (being Laws 2002,
14 Chapter 83, Section 4, as amended) is amended to read:

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

.182722.3

underscored material = new
[bracketed material] = delete

1 SECTION 17. Section 12-10A-3 NMSA 1978 (being Laws 2003,
2 Chapter 218, Section 3, as amended) is amended to read:

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

5 A. "attorney general" means the New Mexico attorney
6 general;

7 B. "court" means the district court for the judicial
8 district where a public health emergency is occurring, the
9 district court for Santa Fe county or, in the event that a
10 district court cannot adequately provide services, a district
11 court designated by the New Mexico supreme court;

12 C. "director" or "state director" means the [~~state~~]
13 director of the homeland security and emergency management
14 division of the department of public safety or the [~~state~~]
15 director's designee;

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

20 E. "health facility" means:

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

23 (2) a nonfederal facility or building, whether
24 public or private, for-profit or nonprofit, that is used,
25 operated or designed to provide health services, medical

.182722.3

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

1 treatment, nursing services, rehabilitative services or
2 preventive care;

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

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

7 (a) laboratories;

8 (b) research facilities;

9 (c) pharmacies;

10 (d) laundry facilities;

11 (e) health personnel training and lodging
12 facilities;

13 (f) patient, guest and health personnel food
14 service facilities; and

15 (g) offices or office buildings used by
16 persons engaged in health care professions or services;

17 F. "isolation" means the physical separation for
18 possible medical care of persons who are infected or who are
19 reasonably believed to be infected with a threatening
20 communicable disease or potential threatening communicable
21 disease from non-isolated persons to protect against the
22 transmission of the threatening communicable disease to
23 non-isolated persons;

24 G. "public health emergency" means the occurrence or
25 imminent threat of exposure to an extremely dangerous condition

.182722.3

underscored material = new
[bracketed material] = delete

1 or a highly infectious or toxic agent, including a threatening
2 communicable disease, that poses an imminent threat of
3 substantial harm to the population of New Mexico or any portion
4 thereof;

5 H. "public health official" means the secretary of
6 health or the secretary's designee, including a qualified
7 public individual or group or a qualified private individual or
8 group, as determined by the secretary of health;

9 I. "quarantine" means the precautionary physical
10 separation of persons who have or may have been exposed to a
11 threatening communicable disease or a potentially threatening
12 communicable disease and who do not show signs or symptoms of a
13 threatening communicable disease, from non-quarantined persons,
14 to protect against the transmission of the disease to non-
15 quarantined persons;

16 J. "secretary of health" means the secretary of
17 health or the secretary's designee;

18 K. "secretary of public safety" means the secretary
19 of public safety or the secretary's designee; and

20 L. "threatening communicable disease" means a disease
21 that causes death or great bodily harm that passes from one
22 person to another and for which there are no means by which the
23 public can reasonably avoid the risk of contracting the
24 disease. "Threatening communicable disease" does not include
25 acquired immune deficiency syndrome or other infections caused

.182722.3

underscoring material = new
[bracketed material] = delete

1 by the human immunodeficiency virus."

2 SECTION 18. Section 12-10B-3 NMSA 1978 (being Laws 2006,
3 Chapter 97, Section 3) is amended to read:

4 "12-10B-3. INTRASTATE MUTUAL AID COMMITTEE CREATED--
5 MEMBERSHIP--MEETINGS--DUTIES--EXPENSES.--

6 A. The "intrastate mutual aid committee" is created.
7 The committee shall consist of eleven members appointed by the
8 governor, including a representative of the department of
9 public safety and the ~~[governor's homeland security advisor]~~
10 director of the homeland security and emergency management
11 division of the department of public safety who shall be a
12 permanent member and the presiding officer of the committee.
13 The members shall represent emergency management and response
14 disciplines, political subdivisions and, if participating,
15 Indian nations, tribes or pueblos. Appointments shall be made
16 for terms expiring four years from the date of appointment.
17 The committee shall elect from among its members a vice-
18 presiding officer and any other officers the committee deems
19 appropriate. The committee shall meet at least annually and
20 may meet at the call of the presiding officer or as otherwise
21 called by seven of its members. The committee shall be
22 attached to the department of public safety for administrative
23 purposes only.

24 B. The committee shall:

25 (1) review the progress and status of intrastate

1 mutual aid;

2 (2) assist in developing methods to track and
3 evaluate activation of the system;

4 (3) examine issues facing member jurisdictions
5 in the implementation of intrastate mutual aid;

6 (4) develop, adopt and disseminate comprehensive
7 guidelines and procedures that address the following:

8 (a) projected or anticipated costs of
9 establishing and maintaining the system;

10 (b) checklists for requesting and providing
11 intrastate mutual aid;

12 (c) record keeping for member jurisdictions;
13 and

14 (d) procedures for reimbursing the actual
15 and legitimate expenses of a member jurisdiction that responds
16 to a request for aid through the system; and

17 (5) adopt other guidelines or procedures
18 considered necessary by the committee to implement an effective
19 and efficient system.

20 C. Members of the committee shall not be paid for
21 participating in committee meetings and activities; however:

22 (1) members representing the state, its agencies
23 or political subdivisions shall receive per diem and mileage
24 expenses as provided in the Per Diem and Mileage Act paid by
25 their sponsors;

underscored material = new
[bracketed material] = delete

1 (2) members representing the private sector
2 shall receive per diem and mileage expenses as provided in the
3 Per Diem and Mileage Act paid by the department of public
4 safety; and

5 (3) members representing Indian nations, tribes
6 or pueblos may be compensated or reimbursed as provided by the
7 tribal government they represent."

8 SECTION 19. Section 12-10D-2 NMSA 1978 (being Laws 2009,
9 Chapter 111, Section 2) is amended to read:

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

12 A. "department" or "division" means the homeland
13 security and emergency management division of the department of
14 public safety;

15 B. "first responder" means a public safety employee
16 or volunteer whose duties include responding rapidly to an
17 emergency, including but not limited to:

18 (1) a law enforcement officer;

19 (2) a firefighter or certified volunteer
20 firefighter; and

21 (3) an emergency medical services provider;

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

.182722.3

underscored material = new
[bracketed material] = delete

1 D. "interoperability" means coordination of critical
2 information communication systems or networks, including radio
3 and emergency coordination information equipment, that are
4 consistently operable with all relevant local, state, tribal
5 and federal agencies and first responders."

6 SECTION 20. Section 12-10D-3 NMSA 1978 (being Laws 2009,
7 Chapter 111, Section 3) is amended to read:

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

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

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

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

- 19 (1) the lieutenant governor;
- 20 (2) the ~~[homeland security advisor]~~ director of
21 the division;
- 22 (3) the secretary of information technology or
23 the secretary's designee;
- 24 (4) the adjutant general or a representative
25 from the department of military affairs;

.182722.3

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

1 (5) the secretary of energy, minerals and
2 natural resources or the secretary's designee;

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

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

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

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

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

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

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

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

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

25 SECTION 21. Section 12-12-19 NMSA 1978 (being Laws 1983,

.182722.3

underscoring material = new
[bracketed material] = delete

1 Chapter 80, Section 3, as amended) is amended to read:

2 "12-12-19. DEFINITIONS.--As used in the Hazardous
3 Materials Emergency Response Act:

4 A. "accident" means an event involving hazardous
5 materials that may cause injury to persons or damage to
6 property or release hazardous materials to the environment;

7 B. "administrator" means the hazardous materials
8 emergency response administrator;

9 C. "board" means the hazardous materials safety
10 board;

11 D. "chief" means the chief of the New Mexico state
12 police;

13 E. "commission" means the state emergency response
14 commission;

15 F. "department" or "division" means the homeland
16 security and emergency management division of the department of
17 public safety;

18 G. "director" means the director of the division;

19 [~~G.~~] H. "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.~~] I. "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;

.182722.3

underscored material = new
[bracketed material] = delete

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

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

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

17 [~~M.~~] N. "radioactive materials" means any material or
18 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;

.182722.3

underscored material = new
[bracketed material] = delete

1 [~~N-~~] O. "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-~~] P. "secretary" or "state director" means the
6 [~~state~~] director of [~~homeland security and emergency~~
7 ~~management~~] the division."

8 SECTION 22. Section 12-12-21 NMSA 1978 (being Laws 1983,
9 Chapter 80, Section 5, as amended by Laws 2007, Chapter 290,
10 Section 11 and by Laws 2007, Chapter 291, Section 29) is
11 amended to read:

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

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

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

.182722.3

underscoring material = new
[bracketed material] = delete

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

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

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

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

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

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

24 D. The responsible state agencies shall be:

25 (1) the New Mexico state police division of the

.182722.3

underscored material = new
[bracketed material] = delete

1 department of public safety for coordination, law enforcement
2 and traffic and crowd control;

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

6 (3) the [state] fire [~~marshal's office~~] marshal
7 division of the department of public safety for assistance with
8 any accident involving hazardous materials;

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

13 (5) the homeland security and emergency
14 management division of the department of public safety and the
15 department of military affairs for assistance with accidents
16 that require the evacuation of the vicinity of the accident or
17 the use of the national guard of New Mexico; and

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

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

23 F. Any driver of a vehicle carrying hazardous
24 materials involved in an accident that may cause injury to
25 persons or property or any owner, shipper or carrier of

.182722.3

underscored material = new
[bracketed material] = delete

1 hazardous materials involved in an accident who has knowledge
2 of such accident or any owner or person in charge of any
3 building, premises or facility where such an accident occurs
4 shall immediately notify the New Mexico state police division
5 of the department of public safety by the quickest means of
6 communication available."

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

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

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

17 "12-12A-2. DEFINITIONS.--As used in the Uniform Emergency
18 Volunteer Health Practitioners Act:

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

23 (1) is designated or recognized as a provider of
24 those services pursuant to a disaster response and recovery
25 plan adopted by an agency of the federal government or the

.182722.3

underscoring material = new
[bracketed material] = delete

1 ~~[homeland security and emergency management department]~~
2 division; or

3 (2) regularly plans and conducts its activities
4 in coordination with an agency of the federal government or the
5 ~~[homeland security and emergency management department]~~
6 division;

7 B. "division" means the homeland security and
8 emergency management division of the department of public
9 safety;

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

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

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

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

22 ~~[F-]~~ G. "health facility" means an entity licensed
23 pursuant to the laws of this or another state to provide health
24 or veterinary services;

25 ~~[G-]~~ H. "health practitioner" means an individual

.182722.3

underscored material = new
[bracketed material] = delete

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

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

8 (1) the following, concerning the physical or
9 mental condition or functional status of an individual or
10 affecting the structure or function of the body:

11 (a) preventive, diagnostic, therapeutic,
12 rehabilitative, maintenance or palliative care; and

13 (b) counseling, assessment, procedures or
14 other services;

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

18 (3) funeral, cremation, cemetery or other
19 mortuary services;

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

23 ~~[J.]~~ K. "license" means authorization by a state to
24 engage in health or veterinary services that are unlawful
25 without the authorization. "License" includes authorization

.182722.3

underscoring material = new
[bracketed material] = delete

1 pursuant to the laws of this state to an individual to provide
2 health or veterinary services based upon a national
3 certification issued by a public or private entity;

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

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

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

19 ~~[N.]~~ O. "veterinary services" means the provision of
20 treatment, care, advice or guidance, or other services or
21 supplies, related to the health or death of an animal or to
22 animal populations, to the extent necessary to respond to an
23 emergency, including:

24 (1) the diagnosis, treatment or prevention of an
25 animal disease, injury or other physical or mental condition by

.182722.3

underscored material = new
[bracketed material] = delete

1 the prescription, administration or dispensing of a vaccine,
2 medicine, surgery or therapy;

3 (2) the use of a procedure for reproductive
4 management; and

5 (3) the monitoring and treatment of animal
6 populations for diseases that have spread or demonstrate the
7 potential to spread to humans; and

8 ~~[0-]~~ P. "volunteer health practitioner" means a
9 health practitioner who provides health or veterinary services,
10 whether or not the practitioner receives compensation for those
11 services. "Volunteer health practitioner" does not include a
12 practitioner who receives compensation pursuant to a
13 preexisting employment relationship with a host entity or
14 affiliate that requires the practitioner to provide health
15 services in this state, unless the practitioner is not a
16 resident of this state and is employed by a disaster relief
17 organization providing services in this state while an
18 emergency declaration is in effect."

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

21 "12-12A-4. REGULATION OF SERVICES DURING EMERGENCY.--

22 A. While an emergency declaration is in effect, the
23 ~~[homeland security and emergency management department]~~
24 division may limit, restrict or otherwise regulate:

25 (1) the duration of practice by volunteer health

.182722.3

underscored material = new
[bracketed material] = delete

1 practitioners;

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

4 (3) the types of volunteer health practitioners
5 who may practice; and

6 (4) any other matters necessary to coordinate
7 effectively the provision of health or veterinary services
8 during the emergency.

9 B. An order issued pursuant to Subsection A of this
10 section may take effect immediately, without prior notice or
11 comment.

12 C. A host entity that uses volunteer health
13 practitioners to provide health or veterinary services in this
14 state shall:

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

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

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

.182722.3

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

1 "12-12A-5. VOLUNTEER HEALTH PRACTITIONER REGISTRATION
2 SYSTEMS.--

3 A. To qualify as a volunteer health practitioner
4 registration system, a system shall:

5 (1) accept applications for the registration of
6 volunteer health practitioners before or during an emergency;

7 (2) include information about the licensure and
8 good standing of health practitioners that is accessible by
9 authorized persons;

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

15 (4) meet one of the following conditions:

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

21 (b) be a local unit consisting of trained
22 and equipped emergency response, public health and medical
23 personnel formed pursuant to Section 2801 of the Public Health
24 Service Act, 42 U.S.C. Section 300hh, as amended;

25 (c) be operated by a: 1) disaster relief

.182722.3

underscored material = new
[bracketed material] = delete

1 organization; 2) licensing board; 3) national or regional
2 association of licensing boards or health practitioners; 4)
3 health facility that provides comprehensive inpatient and
4 outpatient health care services, including a tertiary care and
5 teaching hospital; or 5) governmental entity; or

6 (d) be designated by the [~~homeland security~~
7 ~~and emergency management department~~] division as a registration
8 system for purposes of the Uniform Emergency Volunteer Health
9 Practitioners Act.

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

21 C. Upon request of a person in this state authorized
22 pursuant to Subsection B of this section or a similarly
23 authorized person in another state, a registration system
24 located in this state shall notify the person of the identities
25 of volunteer health practitioners and whether the volunteer

.182722.3

underscored material = new
[bracketed material] = delete

1 health practitioners are licensed and in good standing.

2 D. A host entity is not required to use the services
3 of a volunteer health practitioner even if the volunteer health
4 practitioner is registered with a registration system that
5 indicates that the volunteer health practitioner is licensed
6 and in good standing."

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

9 "12-12A-8. PROVISION OF VOLUNTEER HEALTH OR VETERINARY
10 SERVICES--ADMINISTRATIVE SANCTIONS.--

11 A. Subject to Subsections B and C of this section, a
12 volunteer health practitioner shall adhere to the scope of
13 practice for a similarly licensed practitioner established by
14 the licensing provisions, practice acts or other laws of this
15 state.

16 B. Except as otherwise provided in Subsection C of
17 this section, the Uniform Emergency Volunteer Health
18 Practitioners Act does not authorize a volunteer health
19 practitioner to provide services that are outside the volunteer
20 health practitioner's scope of practice, even if a similarly
21 licensed practitioner in this state would be permitted to
22 provide the services.

23 C. The [~~homeland security and emergency management~~
24 ~~department~~] division may modify or restrict the health or
25 veterinary services that volunteer health practitioners may

.182722.3

underscored material = new
[bracketed material] = delete

1 provide pursuant to the Uniform Emergency Volunteer Health
2 Practitioners Act. An order pursuant to this subsection may
3 take effect immediately, without prior notice or comment.

4 D. A host entity may restrict the health or
5 veterinary services that a volunteer health practitioner may
6 provide pursuant to the Uniform Emergency Volunteer Health
7 Practitioners Act.

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

18 (1) the volunteer health practitioner knows that
19 the limitation, modification or restriction exists or that a
20 similarly licensed practitioner in this state would not be
21 permitted to provide the service; or

22 (2) from all the facts and circumstances known
23 to the volunteer health practitioner at the relevant time, a
24 reasonable person would conclude that the limitation,
25 modification or restriction exists or that a similarly licensed

.182722.3

underscored material = new
[bracketed material] = delete

1 practitioner in this state would not be permitted to provide
2 the service.

3 F. In addition to the authority granted by law of
4 this state other than the Uniform Emergency Volunteer Health
5 Practitioners Act to regulate the conduct of health
6 practitioners, a licensing board or other disciplinary
7 authority in this state:

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

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

14 (3) shall report any administrative sanctions
15 imposed upon a health practitioner licensed in another state to
16 the appropriate licensing board or other disciplinary authority
17 in any other state in which the practitioner is known to be
18 licensed.

19 G. In determining whether to impose administrative
20 sanctions pursuant to Subsection F of this section, a licensing
21 board or other disciplinary authority shall consider the
22 circumstances in which the conduct took place, including any
23 exigent circumstances, and the health practitioner's scope of
24 practice, education, training, experience and specialized
25 skill."

.182722.3

underscoring material = new
[bracketed material] = delete

1 SECTION 28. 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 29. Section 15-8-6 NMSA 1978 (being Laws 1994,
17 Chapter 119, Section 6, as amended by Laws 2009, Chapter 8,
18 Section 1 and by Laws 2009, Chapter 129, Section 1 and also by
19 Laws 2009, Chapter 250, Section 6) is amended to read:

20 "15-8-6. STATE VEHICLES--USE--MARKINGS--STATE GOVERNMENT
21 PLATES.--

22 A. The division shall adopt rules governing the use
23 of vehicles used by state agencies or by other persons pursuant
24 to Subsection G of this section, including driver requirements
25 and responsibilities, under what circumstances someone can be

.182722.3

underscored material = new
[bracketed material] = delete

1 assigned a state vehicle on a permanent or semipermanent basis
2 and when custody of a state vehicle can be vested in another
3 state agency.

4 B. The division may determine that it is impractical
5 to retain custody of certain state vehicles, and it may provide
6 that custody reside in another state agency in the following
7 cases:

8 (1) the state vehicle is used for emergency or
9 law enforcement purposes; or

10 (2) the state vehicle is a department of
11 transportation, energy, minerals and natural resources
12 department, department of game and fish or homeland security
13 and emergency management division of the department of public
14 safety passenger vehicle, truck or tractor or heavy road
15 equipment.

16 C. Except as provided in Subsections E and F of this
17 section, all state vehicles shall be marked as state vehicles.
18 Each side of the vehicle shall be marked, in letters not less
19 than two inches in height, with the following designation of
20 ownership: "State of New Mexico,..... Department" or "State
21 of New Mexico Department of" and naming the
22 department using the vehicle.

23 D. Except as provided in Subsections E and F of this
24 section, all state vehicles shall have specially designed
25 government registration plates.

.182722.3

underscored material = new
[bracketed material] = delete

1 E. Only state vehicles used for legitimate undercover
2 law enforcement purposes are exempt from the requirements of
3 Subsections C and D of this section. All other state vehicles
4 owned or in the custody of state agencies that have law
5 enforcement functions shall be marked and have state government
6 registration plates.

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

14 G. The division shall adopt rules permitting
15 individuals enrolled in the state's adaptive driving program to
16 use special-use state vehicles for evaluation and training
17 purposes in that program."

18 SECTION 30. Section 59A-52-1 NMSA 1978 (being Laws 1984,
19 Chapter 127, Section 947, as amended) is amended to read:

20 "59A-52-1. STATE FIRE MARSHAL CREATED.--The position of
21 "state fire marshal" is created as the director of the fire
22 marshal division [~~under~~] of the [~~public regulation commission~~]
23 department of public safety."

24 SECTION 31. Section 59A-52-3 NMSA 1978 (being Laws 1984,
25 Chapter 127, Section 949, as amended) is amended to read:

.182722.3

underscored material = new
[bracketed material] = delete

1 "59A-52-3. DEPUTY STATE FIRE MARSHAL AND OTHER EMPLOYEES--
2 QUALIFICATIONS OF DEPUTY.--The state fire marshal may employ,
3 with the consent of the [~~chief of staff of the public regulation~~
4 ~~commission~~] secretary of public safety, deputy state fire
5 marshals and other employees to assist in the execution of the
6 marshal's duties."

7 SECTION 32. Section 59A-52-21 NMSA 1978 (being Laws 1984,
8 Chapter 127, Section 967, as amended) is amended to read:

9 "59A-52-21. ADMINISTRATIVE APPEAL OF ORDERS AND
10 MODIFICATIONS.--Any person aggrieved by any order of the state
11 fire marshal [~~his~~] or the marshal's deputy, [~~or~~] authorized
12 officer or [~~his~~] designated agent [~~may appeal to the commission~~]
13 shall have the opportunity to appeal to the secretary of public
14 safety within ten days from the date of the service of [~~such~~]
15 the order. The [~~commission~~] secretary or the secretary's
16 designee shall hear [~~such~~] the party within twenty days after
17 receipt of an appeal request and shall give not less than ten
18 days' written notice of the hearing. Within fifteen days after
19 [~~such~~] the hearing, the [~~commission~~] secretary shall file [~~its~~]
20 a decision and, unless by [~~its~~] the secretary's authority the
21 order is revoked or modified, [~~it~~] the order shall be complied
22 with within the time fixed in the decision, with such time to be
23 not less than thirty days."

24 SECTION 33. Section 59A-52-23 NMSA 1978 (being Laws 1984,
25 Chapter 127, Section 969, as amended) is amended to read:

.182722.3

underscored material = new
[bracketed material] = delete

1 "59A-52-23. ENFORCEMENT OF CEASE AND DESIST ORDERS.--After
2 expiration of time for an administrative appeal, and if no such
3 appeal has been taken, the state fire marshal may commence an
4 action in the district court for Santa Fe county to enforce
5 [the] a cease and desist order by injunction or other
6 appropriate remedy as the district court may adjudge. The
7 [~~commission~~] secretary of public safety may likewise commence an
8 action in the district court for Santa Fe county to enforce its
9 decision rendered on appeal from the cease and desist order of
10 the state fire marshal."

11 **SECTION 34.** Section 59A-53-6 NMSA 1978 (being Laws 1984,
12 Chapter 127, Section 977, as amended) is amended to read:

13 "59A-53-6. APPEAL AND REVIEW OF DETERMINATION.--The marshal
14 shall promptly notify each incorporated city, town, village and
15 county fire district affected of [~~his~~] the marshal's
16 determination of needs, and an incorporated city, town, village
17 or county fire district may appeal from the determination of the
18 marshal to the [~~commission~~] secretary of public safety, within
19 ten days after the determination of needs. The [~~commission~~]
20 secretary or the secretary's designee shall review the
21 determination of the marshal in such informal and summary
22 proceedings as it deems proper and shall certify to the state
23 treasurer annually, on or before the last day of June, the
24 results of all appeals from the determinations of the marshal.
25 The certification by the [~~commission~~] secretary, or by the

.182722.3

underscored material = new
[bracketed material] = delete

1 marshal if no appeal is taken, shall be final and binding on all
2 concerned and not subject to any further review."

3 SECTION 35. Section 59A-53-7 NMSA 1978 (being Laws 1984,
4 Chapter 127, Section 978, as amended) is amended to read:

5 "59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

6 A. Annually on or before the last day of July, the
7 state treasurer shall distribute from the money in the fire
8 protection fund, to each incorporated municipality and to each
9 county fire district, the amount the marshal or the
10 [~~commission~~] secretary of public safety, as the case may be,
11 has certified to the state treasurer. Payment shall be made to
12 the treasurer of any incorporated municipality and to the
13 county treasurer of the county in which any county fire
14 district is located for credit to the county fire district.

15 B. The state treasurer is authorized to redirect a
16 distribution to the New Mexico finance authority in the amount
17 the marshal or the [~~commission~~] secretary of public safety, as
18 the case may be, has certified to the state treasurer pursuant
19 to an ordinance or a resolution passed by the municipality or
20 county and a written agreement of the municipality or county in
21 which any county fire district is located and the New Mexico
22 finance authority.

23 C. In addition to the distributions made pursuant to
24 Subsections A and B of this section, upon certification by the
25 marshal that the balance of the firefighters' survivors fund is

.182722.3

underscored material = new
[bracketed material] = delete

1 less than fifty thousand dollars (\$50,000), the state treasurer
2 shall distribute an amount from the fire protection fund to the
3 firefighters' survivors fund so that the balance of the
4 firefighters' survivors fund equals fifty thousand dollars
5 (\$50,000)."

6 SECTION 36. Section 59A-53-19 NMSA 1978 (being Laws 2006,
7 Chapter 103, Section 8, as amended) is amended to read:

8 "59A-53-19. FIRE PROTECTION GRANT COUNCIL--DUTIES.--

9 A. The "fire protection grant council" is created.

10 [~~Subject to the requirements of Subsection B of this section~~]

11 The council shall consist of:

12 (1) a representative of the New Mexico municipal
13 league;

14 (2) a representative of the New Mexico
15 association of counties;

16 (3) two members appointed by the [~~public~~
17 ~~regulation commission~~] secretary of public safety, who shall
18 serve at the pleasure of the [~~commission~~] secretary;

19 (4) three members, one from each congressional
20 district, appointed by the governor, who shall serve at the
21 pleasure of the governor; and

22 (5) the marshal, who shall serve as a nonvoting
23 advisory member. The council shall elect a chair and vice
24 chair from its membership.

25 [~~B. No appointee to the council shall be a member of~~

.182722.3

underscored material = new
[bracketed material] = delete

1 ~~the public regulation commission, the superintendent of~~
2 ~~insurance or any other employee of the commission.]~~

3 ~~G.]~~ B. The public members are entitled to receive per
4 diem and mileage as provided in the Per Diem and Mileage Act
5 and shall receive no other compensation, perquisite or
6 allowance.

7 ~~[D.]~~ C. The council shall develop criteria for
8 assessing the critical needs of municipal and county fire
9 districts for:

- 10 (1) fire apparatus and equipment;
- 11 (2) communications equipment;
- 12 (3) equipment for wildfires;
- 13 (4) fire station construction or expansion;
- 14 (5) equipment for hazardous material response;

15 and

16 (6) stipends for volunteer firefighters in
17 underserved areas.

18 ~~[E.]~~ D. Applications for grant assistance from the
19 fire protection grant fund shall be made by fire districts to
20 the council in accordance with the requirements of the council.
21 Using criteria developed by the council, the council shall
22 evaluate applications and prioritize those applications most in
23 need of grant assistance from the fund. To the extent that
24 money in the fund is available, the council shall award grant
25 assistance for those prioritized applications.

.182722.3

underscored material = new
[bracketed material] = delete

1 ~~[F-]~~ E. In awarding grant assistance, the council may
2 require conditions and procedures necessary to ensure that the
3 money is expended in the most prudent manner.

4 ~~[G-]~~ F. When considering applications for grant
5 assistance to pay stipends to volunteer firefighters in
6 underserved areas, the council shall:

- 7 (1) define "underserved area";
- 8 (2) ensure the proposed stipends will comply
9 with the federal Fair Labor Standards Act of 1938 and United
10 States department of labor requirements for maintaining
11 volunteer status;
- 12 (3) require a basic level of training before a
13 volunteer may receive a stipend;
- 14 (4) consider whether the fire district requires
15 a service commitment from its volunteer firefighters in
16 exchange for stipends; and
- 17 (5) weight the applications against other
18 criteria or requirements determined by the council."

19 **SECTION 37.** Section 63-9D-3 NMSA 1978 (being Laws 1989,
20 Chapter 25, Section 3, as amended) is amended to read:

21 "63-9D-3. DEFINITIONS.--As used in the Enhanced 911 Act:

- 22 A. "911 emergency surcharge" means the monthly
23 uniform charge assessed on each access line in the state and on
24 each active number for a commercial mobile radio service
25 subscriber whose billing address is in New Mexico;

.182722.3

underscored material = new
[bracketed material] = delete

1 B. "911 service area" means the area designated by
2 the fiscal agent or local governing body or the division to
3 receive enhanced 911 service;

4 C. "access line" means a telecommunications company's
5 line that has the capability to reach local public safety
6 agencies by dialing 911, but does not include a line used for
7 the provision of interexchange services or commercial mobile
8 radio service;

9 D. "commercial mobile radio service" means service
10 provided by a wireless real-time two-way voice communication
11 device, including:

12 (1) radio-telephone communications used in
13 cellular telephone service;

14 (2) the functional or competitive equivalent of
15 radio-telephone communications used in cellular telephone
16 service;

17 (3) a personal communications service; or

18 (4) a network radio access line;

19 E. "commercial mobile radio service provider" means a
20 person who provides commercial mobile radio services, including
21 a person who purchases commercial mobile radio service from a
22 provider and resells that service;

23 ~~[F. "commission" means the public regulation~~
24 ~~commission;~~

25 ~~G.]~~ F. "database" means information that is

.182722.3

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

1 collected, formatted and disseminated and that is necessary for
2 the functioning of the enhanced 911 system, including
3 geographic information system (GIS) addressing and digital
4 mapping information;

5 [H.] G. "department" means the taxation and revenue
6 department;

7 [F.] H. "division" means the ~~[local government~~
8 ~~division of the department of finance and administration]~~
9 homeland security and emergency management division of the
10 department of public safety;

11 [J.] I. "enhanced 911 system" means a landline,
12 internet protocol or wireless system consisting of network
13 switching equipment, database, mapping and on-premises
14 equipment that uses the single three-digit number 911 for
15 reporting police, fire, medical or other emergency situations,
16 thereby enabling a caller to reach a public safety answering
17 point to report emergencies by dialing 911, and includes the
18 capability to:

19 (1) selectively route incoming 911 calls to the
20 appropriate public safety answering point operating in a 911
21 service area;

22 (2) automatically display the name, address and
23 telephone number of an incoming 911 call on a video monitor at
24 the appropriate public safety answering point;

25 (3) provide one or more access paths for

.182722.3

underscoring material = new
[bracketed material] = delete

1 communications between users at different geographic locations
2 through a network system that may be designed for voice or
3 data, or both, and may feature limited or open access and may
4 employ appropriate analog, digital switching, internet protocol
5 or transmission technologies; and

6 (4) relay to a designated public safety
7 answering point a 911 caller's number and base station or cell
8 site location and the latitude and longitude of the 911
9 caller's location in relation to the designated public safety
10 answering point;

11 [~~K.~~] J. "enhanced 911 equipment" means the public
12 safety answering point equipment directly related to the
13 operation of an enhanced 911 system, including automatic number
14 identification or automatic location identification controllers
15 and display units, printers, logging recorders and software
16 associated with call detail recording, call center work
17 stations, training, latitude and longitude base station or cell
18 site location data and GIS equipment necessary to obtain and
19 process vocational map and emergency service zone data for
20 landline and wireless callers;

21 [~~H.~~] K. "equipment supplier" means a person who
22 provides or offers to provide telecommunications or internet
23 protocol equipment necessary for the establishment of enhanced
24 911 services;

25 [~~M.~~] L. "fiscal agent" means the local governing body

.182722.3

underscoring material = new
[bracketed material] = delete

1 that administers grants from the fund for a given locality or
2 region by agreement;

3 ~~[N.]~~ M. "fund" means the enhanced 911 fund;

4 N. "interconnected voice over internet protocol
5 service" means a real-time two-way voice communication service
6 that requires:

7 (1) a broadband connection; and

8 (2) internet protocol-compatible customer
9 premises equipment;

10 O. "interconnected voice over internet protocol
11 provider" means a person who provides interconnected voice over
12 internet protocol services;

13 ~~[O.]~~ P. "local governing body" means the board of
14 county commissioners of a county or the governing body of a
15 municipality as defined in the Municipal Code;

16 Q. "next generation 911 technology" means technology
17 developed as part of the United States department of
18 transportation's next generation 911 technology initiative;

19 R. "prepaid calling card" means any object containing
20 an access number and authorization code that allows a consumer
21 to use prepaid calling services;

22 S. "prepaid calling card provider" means a person who
23 provides a prepaid calling card to a consumer, including a
24 person who purchases a prepaid calling card from a provider and
25 resells the card;

.182722.3

underscored material = new
[bracketed material] = delete

1 [P-] T. "proprietary information" means customer
2 lists, customer counts, technology descriptions or trade
3 secrets, including the actual or development costs of
4 individual components of an enhanced 911 system; provided that
5 such information is designated as proprietary by the commercial
6 mobile radio service provider, interconnected voice over
7 internet protocol service provider, prepaid calling card
8 provider or telecommunications company; and provided further
9 that "proprietary information" does not include individual
10 payments made by the division or any list of names and
11 identifying information of subscribers who have not paid the
12 surcharge;

13 [Q-] U. "public safety answering point" means a
14 twenty-four-hour [~~local~~] communications facility that receives
15 911 service calls and directly dispatches emergency response
16 services or that relays calls to the appropriate public or
17 private safety agency;

18 [R-] V. "subscriber" means a person who is a retail
19 purchaser of telecommunications services, interconnected voice
20 over internet protocol services or commercial mobile radio
21 services that are capable of originating a 911 call;

22 [S-] W. "surcharge" means the 911 emergency
23 surcharge;

24 [T-] X. "telecommunications company" means a person
25 who provides wire telecommunications services that are capable

underscored material = new
[bracketed material] = delete

1 of originating a 911 call; and

2 [U-] Y. "vendor" means a person that provides 911
3 equipment, service or network support."

4 **SECTION 38.** Section 63-9D-5 NMSA 1978 (being Laws 1989,
5 Chapter 25, Section 5, as amended) is amended to read:

6 "63-9D-5. IMPOSITION OF SURCHARGE.--

7 A. There is imposed a 911 emergency surcharge in the
8 amount of fifty-one cents (\$.51) to be billed to each
9 subscriber access line by a telecommunications company on each
10 prepaid calling card purchased in New Mexico and on each active
11 number for a commercial mobile radio service or interconnected
12 voice over internet protocol service subscriber whose billing
13 address is in New Mexico; provided, however, that the surcharge
14 shall not be imposed upon subscribers receiving reduced rates
15 pursuant to the Low Income Telephone Service Assistance Act.

16 B. Commercial mobile radio service providers and
17 interconnected voice over internet protocol service providers
18 shall be required to bill and collect the surcharge from their
19 subscribers whose places of primary use, as defined in the
20 federal Mobile Telecommunications Sourcing Act, are in New
21 Mexico. Prepaid calling card providers shall be required to
22 bill and collect the surcharge from all persons purchasing
23 prepaid calling cards in New Mexico. Telecommunications
24 companies shall be required to bill and collect the surcharge
25 from their subscribers. The surcharge required to be collected

.182722.3

underscored material = new
[bracketed material] = delete

1 by the commercial mobile radio service provider, prepaid
2 calling card provider, interconnected voice over internet
3 protocol service provider or telecommunications company shall
4 be added to and stated clearly and separately in the billings
5 to the subscriber. The surcharge collected by the commercial
6 mobile radio service provider, prepaid calling card provider,
7 interconnected voice over internet protocol service provider or
8 telecommunications company shall not be considered revenue [~~of~~
9 ~~the commercial mobile radio service provider or~~
10 ~~telecommunications company~~].

11 C. A billed subscriber is liable for payment of the
12 911 emergency surcharge until it has been paid to the
13 commercial mobile radio service provider, prepaid calling card
14 provider, interconnected voice over internet protocol service
15 provider or telecommunications company.

16 D. A commercial mobile radio service provider,
17 prepaid calling card provider, interconnected voice over
18 internet protocol service provider or telecommunications
19 company has no obligation to take legal action to enforce the
20 collection of the surcharge; an action may be brought by or on
21 behalf of the department. A commercial mobile radio service
22 provider, prepaid calling card provider, interconnected voice
23 over internet protocol service provider or telecommunications
24 company, upon request and not more than once a year, shall
25 provide to the department a list of the surcharge amounts

.182722.3

underscoring material = new
[bracketed material] = delete

1 uncollected, along with the names and addresses of subscribers
2 who carry a balance that can be determined by the commercial
3 mobile radio service provider, prepaid calling card provider,
4 interconnected voice over internet protocol service provider or
5 telecommunications company to be nonpayment of the surcharge.
6 The commercial mobile radio service provider, prepaid calling
7 card provider, interconnected voice over internet protocol
8 service provider or telecommunications company shall not be
9 held liable for uncollected surcharge amounts.

10 E. The surcharge shall commence with the first
11 billing period of each commercial mobile radio service or
12 telecommunications company subscriber on or [~~following~~] after
13 July 1, 2005. The surcharge shall commence with the first
14 billing period of each interconnected voice over internet
15 protocol provider service subscriber on or after July 1, 2011.
16 The surcharge shall be charged to each prepaid calling card
17 purchaser on or after July 1, 2011."

18 SECTION 39. Section 63-9D-7 NMSA 1978 (being Laws 1989,
19 Chapter 25, Section 7, as amended) is amended to read:

20 "63-9D-7. REMITTANCE OF CHARGES--ADMINISTRATIVE FEE.--

21 A. The surcharge collected shall be remitted monthly
22 to the department, which shall administer and enforce
23 collection of the surcharge in accordance with the Tax
24 Administration Act. The surcharge shall be remitted to the
25 department no later than the twenty-fifth day of the month

.182722.3

underscored material = new
[bracketed material] = delete

1 following the month in which the surcharge was imposed. At
2 that time, a return for the preceding month shall be filed with
3 the department in such form as the department and the
4 telecommunications company, prepaid calling card provider,
5 interconnected voice over internet protocol service provider or
6 commercial mobile radio service provider shall agree upon. A
7 telecommunications company, prepaid calling card provider,
8 interconnected voice over internet protocol service provider or
9 commercial mobile radio service provider required to file a
10 return shall deliver the return together with a remittance of
11 the amount of the surcharge payable to the department. The
12 telecommunications company, prepaid calling card provider,
13 interconnected voice over internet protocol service provider or
14 commercial mobile radio service provider shall maintain a
15 record of the amount of each surcharge collected pursuant to
16 the Enhanced 911 Act. The record shall be maintained for a
17 period of three years after the time the surcharges were
18 collected.

19 B. From a remittance to the department made on or
20 before the date it becomes due, a telecommunications company,
21 prepaid calling card provider, interconnected voice over
22 internet protocol service provider or commercial mobile radio
23 service provider required to make a remittance shall be
24 entitled to deduct and retain one percent of the collected
25 amount or fifty dollars (\$50.00), whichever is greater, as the

.182722.3

underscoring material = new
[bracketed material] = delete

1 administrative cost for collecting the surcharge."

2 SECTION 40. Section 63-9D-8 NMSA 1978 (being Laws 1989,
3 Chapter 25, Section 8, as amended) is amended to read:

4 "63-9D-8. ENHANCED 911 FUND--CREATION--ADMINISTRATION--
5 DISBURSEMENT--REPORTS TO LEGISLATURE.--

6 A. There is created in the state treasury a fund
7 that shall be known as the "enhanced 911 fund". The fund shall
8 be administered by the division.

9 B. All surcharges collected and remitted to the
10 department shall be deposited in the fund.

11 C. Money deposited in the fund and income earned by
12 investment of the fund are appropriated for expenditure in
13 accordance with the Enhanced 911 Act and shall not revert to
14 the general fund.

15 D. Payments shall be made from the fund to, or on
16 behalf of, participating local governing bodies or their fiscal
17 agents upon vouchers signed by the director of the division
18 solely for the purpose of reimbursing local governing bodies or
19 their fiscal agents, commercial mobile radio service providers,
20 interconnected voice over internet protocol service providers
21 or telecommunications companies for their costs of providing
22 enhanced 911 service. A person who purchases commercial mobile
23 radio services, interconnected voice over internet protocol
24 services or telecommunications services from a commercial
25 mobile radio service provider, interconnected voice over

.182722.3

underscored material = new
[bracketed material] = delete

1 internet protocol service provider or telecommunications
2 company for the purpose of reselling that service is not
3 eligible for reimbursement from the fund. Money in the fund
4 may be used for the payment of bonds issued pursuant to the
5 Enhanced 911 Bond Act.

6 E. Annually, the division may expend no more than
7 five percent of all money deposited annually in the fund for
8 administering and coordinating activities associated with
9 implementation of the Enhanced 911 Act.

10 F. Money in the fund may be awarded as grant
11 assistance to provide enhanced 911 service and equipment upon
12 application of local governing bodies or their fiscal agents to
13 the division and upon approval by the state board of finance.
14 If it is anticipated that the funds available to pay all
15 requests for grants will be insufficient, the state board of
16 finance may reduce the percentage of assistance to be awarded.
17 In the event of such reduction, the state board of finance may
18 award supplemental grants to local governing bodies that
19 demonstrate financial hardship.

20 G. After requesting enhanced 911 service from a
21 telecommunications company, interconnected voice over internet
22 protocol service providers or commercial mobile radio service
23 provider, a local governing body may, by ordinance or
24 resolution, recover from the fund an amount necessary to
25 recover the costs of providing the enhanced 911 system in its

.182722.3

underscored material = new
[bracketed material] = delete

1 designated 911 service area. The division, on behalf of local
2 governing bodies, shall directly pay or reimburse commercial
3 mobile radio service providers; interconnected voice over
4 internet protocol service providers and telecommunications
5 companies for their costs of providing enhanced 911 service.
6 If a commercial mobile radio service provider, interconnected
7 voice over internet protocol service provider or
8 telecommunications company does not receive payment or
9 reimbursement for the costs of providing enhanced 911 service,
10 the provider is not obligated to provide that service.

11 H. Pursuant to Section 44 of this 2011 act, money in
12 the fund may be used by the division to provide for a statewide
13 enhanced 911 system and for implementation of next generation
14 911 programs.

15 [~~H.~~] I. The division shall report to the legislature
16 each session the status of the fund and whether the current
17 level of the 911 emergency surcharge is sufficient, excessive
18 or insufficient to fund the anticipated needs for the next
19 year."

20 **SECTION 41.** Section 63-9D-8.1 NMSA 1978 (being Laws 1990,
21 Chapter 87, Section 3, as amended) is amended to read:

22 "63-9D-8.1. DIVISION POWERS.--

23 A. The division may adopt reasonable rules necessary
24 to carry out the provisions of the Enhanced 911 Act.

25 B. The division may fund enhanced 911 systems

.182722.3

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

1 pursuant to the provisions of the Enhanced 911 Act.

2 C. Division powers are limited and do not include
3 power to intervene between two vendors or restrict marketing
4 efforts of vendors.

5 D. The division and the local governing body may
6 establish 911 service areas.

7 E. Unless otherwise provided by law, no rule
8 affecting any person, agency, local governing body, commercial
9 mobile radio service provider, interconnected voice over
10 internet protocol service provider, prepaid calling card
11 provider or telecommunications company shall be adopted,
12 amended or repealed without a public hearing on the proposed
13 action before the director of the division or a hearing officer
14 designated by the director. The public hearing shall be held
15 in Santa Fe unless otherwise permitted by statute. Notice of
16 the subject matter of the rule, the action proposed to be
17 taken, the time and place of the hearing, the manner in which
18 interested persons may present their views and the method by
19 which copies of the proposed rule or proposed amendment or
20 repeal of an existing rule may be obtained shall be published
21 once at least thirty days prior to the hearing in a newspaper
22 of general circulation and mailed at least thirty days prior to
23 the hearing date to all persons or agencies who have made a
24 written request for advance notice of the hearing and to all
25 local governing bodies, telecommunications companies,

.182722.3

underscored material = new
[bracketed material] = delete

1 interconnected voice over internet protocol service providers,
2 prepaid calling card providers and commercial mobile radio
3 service providers.

4 F. All rules shall be filed in accordance with the
5 State Rules Act."

6 SECTION 42. Section 63-9D-10 NMSA 1978 (being Laws 1989,
7 Chapter 25, Section 10, as amended) is amended to read:

8 "63-9D-10. IMMUNITY.--Enhanced 911 systems are within the
9 governmental powers and authorities of the local governing body
10 or state agency in the provision of services for the public
11 health, welfare and safety. In contracting for such services
12 or the provisioning of an enhanced 911 system, except for
13 willful or wanton negligence or intentional acts, the local
14 governing body, public agency, equipment supplier,
15 telecommunications company, commercial mobile radio service
16 provider and interconnected voice over internet protocol
17 service provider and their employees and agents are not liable
18 for damages resulting from installing, maintaining or providing
19 enhanced 911 systems or transmitting 911 calls."

20 SECTION 43. Section 63-9D-11 NMSA 1978 (being Laws 1989,
21 Chapter 25, Section 11, as amended) is amended to read:

22 "63-9D-11. PRIVATE LISTING SUBSCRIBERS AND 911 SERVICE.--

23 A. Private listing subscribers waive the privacy
24 afforded by nonlisted or nonpublished numbers only to the
25 extent that the name and address associated with the telephone

.182722.3

underscored material = new
[bracketed material] = delete

1 number may be furnished to the enhanced 911 system for call
2 routing or for automatic retrieval of location information in
3 response to a call initiated to 911.

4 B. Information regarding the identity of private
5 listing subscribers, including names, addresses, telephone
6 numbers or other identifying information, is not a public
7 record and is not available for inspection.

8 C. Proprietary information provided by a commercial
9 mobile radio service provider, interconnected voice over
10 internet protocol service provider or telecommunications
11 company is not public information and may not be released to
12 any person without the express permission of the submitting
13 provider, except that information may be released or published
14 as aggregated data that does not identify the number of
15 subscribers or identify enhanced 911 system costs attributable
16 to an individual commercial mobile radio service provider,
17 interconnected voice over internet protocol service provider or
18 telecommunications company."

19 SECTION 44. A new section of the Enhanced 911 Act is
20 enacted to read:

21 "[NEW MATERIAL] STATEWIDE ENHANCED 911 SYSTEM--NEXT
22 GENERATION 911 PROGRAMS--DEPARTMENT OF INFORMATION TECHNOLOGY.--

23 A. The division shall work with the department of
24 information technology to provide a statewide enhanced 911
25 system that includes next generation 911 technologies.

.182722.3

underscored material = new
[bracketed material] = delete

1 B. A local governing body that controls a public
2 safety answering point shall connect to the statewide enhanced
3 911 system once the statewide enhanced 911 system is fully
4 operational.

5 C. The department of information technology shall
6 provide all technical infrastructure needed for the development
7 of a statewide enhanced 911 system, including next generation
8 911 technologies."

9 SECTION 45. Section 63-9D-13 NMSA 1978 (being Laws 1990,
10 Chapter 61, Section 2, as amended) is amended to read:

11 "63-9D-13. DEFINITIONS.--As used in the Enhanced 911 Bond
12 Act:

13 A. "board" means the state board of finance;

14 B. "division" means the ~~[local government division of~~
15 ~~the department of finance and administration]~~ homeland security
16 and emergency management division of the department of public
17 safety;

18 C. "enhanced 911 bonds" means the bonds authorized in
19 the Enhanced 911 Bond Act;

20 D. "enhanced 911 project" means actions authorized
21 under Section 63-9D-14 NMSA 1978 that pertain to a specific
22 component of the enhanced 911 system; and

23 E. "enhanced 911 revenue" means the revenue to and
24 the income of the enhanced 911 fund that are pledged to the
25 payment of enhanced 911 bonds under the Enhanced 911 Bond Act."

.182722.3

underscored material = new
[bracketed material] = delete

1 SECTION 46. Section 63-9D-14 NMSA 1978 (being Laws 1990,
2 Chapter 61, Section 3, as amended) is amended to read:

3 "63-9D-14. ENHANCED 911 BONDS--AUTHORITY TO ISSUE--PLEDGE
4 OF REVENUES--LIMITATION ON ISSUANCE.--

5 A. In addition to any other law authorizing the board
6 to issue revenue bonds, the board may issue enhanced 911 bonds
7 pursuant to the Enhanced 911 Bond Act for the purposes
8 specified in this section.

9 B. Enhanced 911 bonds may be issued for:

10 (1) acquiring, extending, enlarging, bettering,
11 repairing, improving, constructing, purchasing, furnishing,
12 equipping or rehabilitating the enhanced 911 system, the
13 payment of which shall be secured by enhanced 911 revenues;

14 (2) reimbursing a commercial mobile radio
15 service provider, interconnected voice over internet protocol
16 service provider or telecommunications company for its
17 reasonable costs of providing enhanced 911 service, the payment
18 of which shall be secured by enhanced 911 revenues; [~~or~~]

19 (3) reimbursing a local governing body or its
20 fiscal agent for its reasonable costs of providing the enhanced
21 911 system, the payment of which shall be secured by enhanced
22 911 revenues; or

23 (4) reimbursing the division or the department
24 of information technology for its reasonable costs of providing
25 a statewide enhanced 911 system and next generation 911

.182722.3

underscored material = new
[bracketed material] = delete

1 programs.

2 C. The board may pledge irrevocably enhanced 911
3 revenues in the manner set forth in Subsection B of this
4 section to the payment of the interest on and principal of
5 enhanced 911 bonds. Any general determination by the board
6 that expenditures are reasonably related to and constitute a
7 part of a specified enhanced 911 project shall be conclusive if
8 set forth in the proceedings authorizing the enhanced 911
9 bonds."

10 SECTION 47. Section 65-1-2 NMSA 1978 (being Laws 1978,
11 Chapter 19, Section 1, as amended) is amended to read:

12 "65-1-2. DEFINITIONS.--As used in the Motor
13 Transportation Act:

14 A. "combination" means any connected assemblage of a
15 motor vehicle and one or more semitrailers, trailers or
16 semitrailers converted to trailers by means of a converter
17 gear;

18 B. "combination gross vehicle weight" means the sum
19 total of the gross vehicle weights of all units of a
20 combination;

21 C. "commercial motor carrier vehicle" means a self-
22 propelled or towed vehicle, other than special mobile
23 equipment, used on public highways in commerce to transport
24 passengers or property when the vehicle:

25 (1) is operated interstate and has a gross

underscored material = new
[bracketed material] = delete

1 vehicle weight rating or gross combination weight rating, or
2 gross vehicle weight or gross combination weight, of four
3 thousand five hundred thirty-six kilograms, or ten thousand one
4 pounds or more; or is operated only in intrastate commerce and
5 has a gross vehicle weight rating or gross combination weight
6 rating, or gross vehicle weight or gross combination weight, of
7 twenty-six thousand one or more pounds;

8 (2) is designed or used to transport more than
9 eight passengers, including the driver, and is used to
10 transport passengers for compensation;

11 (3) is designed or used to transport more than
12 fifteen passengers, including the driver, and is not used to
13 transport passengers for compensation; or

14 (4) is used to transport hazardous materials of
15 the type or quantity requiring placarding under rules
16 prescribed by applicable federal or state law;

17 D. "converter gear" means any assemblage of one or
18 more axles with a fifth wheel mounted thereon, designed for use
19 in a combination to support the front end of a semitrailer but
20 not permanently attached thereto. A "converter gear" shall not
21 be considered a vehicle as that term is used in Chapter 66 NMSA
22 1978, but its weight [~~attributable thereto~~] shall be included
23 in declared gross weight;

24 E. "declared gross weight" means maximum gross
25 vehicle weight or combination gross vehicle weight at which a

.182722.3

underscoring material = new
[bracketed material] = delete

1 vehicle or combination will be operated during the registration
2 period as declared by the registrant for registration and fee
3 purposes. The vehicle or combination shall have only one
4 "declared gross weight" for all operating considerations;

5 F. "department", without modification, means the
6 department of [~~public safety~~] transportation, the secretary of
7 [~~public safety~~] transportation or any employee of the
8 department exercising authority lawfully delegated to that
9 employee by the secretary;

10 G. "director" means the secretary;

11 H. "division" means the motor transportation division
12 of the department;

13 I. "evidence of registration" means documentation
14 issued by the taxation and revenue department identifying a
15 motor carrier vehicle as being registered with New Mexico or
16 documentation issued by another state pursuant to the terms of
17 a multistate agreement on registration of vehicles to which
18 this state is a party identifying a motor carrier vehicle as
19 being registered with that state; provided that evidence of
20 payment of the weight distance tax and permits obtained under
21 either the Special Fuels Supplier Tax Act or Trip Tax Act are
22 not "evidence of registration";

23 J. "field enforcement" or "in the field" means
24 patrolling of the highway, stopping of commercial motor carrier
25 vehicles or establishing ports of entry and roadblocks for the

.182722.3

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

1 purpose of checking motor carriers and includes similar
2 activities;

3 K. "freight trailer" means any trailer, semitrailer
4 or pole trailer drawn by a truck tractor or road tractor and
5 any trailer, semitrailer or pole trailer drawn by a truck that
6 has a gross vehicle weight of more than twenty-six thousand
7 pounds, but the term does not include house trailers, trailers
8 of less than one-ton carrying capacity used to transport
9 animals or fertilizer trailers of less than three thousand five
10 hundred pounds empty weight;

11 L. "gross vehicle weight" means the weight of a
12 vehicle without load plus the weight of any load thereon;

13 M. "motor carrier" means any person that owns,
14 controls, operates or manages any motor vehicle with gross
15 vehicle weight of twelve thousand pounds or more that is used
16 to transport persons or property on the public highways of this
17 state;

18 N. "motor vehicle" means any vehicle or device that
19 is propelled by an internal combustion engine or electric motor
20 power that is used or may be used on the public highways for
21 the purpose of transporting persons or property and includes
22 any connected trailer or semitrailer;

23 O. "one-way rental fleet" means two or more vehicles
24 each having a gross vehicle weight of under twenty-six thousand
25 one pounds and rented to the public without a driver;

.182722.3

underscored material = new
[bracketed material] = delete

1 P. "person" means any individual, estate, trust,
2 receiver, cooperative association, club, corporation, company,
3 firm, partnership, joint venture, syndicate or other
4 association; "person" also means, to the extent permitted by
5 law, any federal, state or other governmental unit or
6 subdivision or an agency, department or instrumentality
7 [thereof]; "person" also includes an officer or employee of a
8 corporation, a member or employee of a partnership or any
9 individual who, as such, is under a duty to perform any act in
10 respect of which a violation occurs;

11 Q. "properly registered" means bearing the lawfully
12 issued and currently valid evidence of registration of this or
13 another jurisdiction, regardless of the owner's residence,
14 except in those cases where the evidence has been procured by
15 misrepresentation or fraud;

16 R. "public highway" means every way or place
17 generally open to the use of the public as a matter of right
18 for the purpose of vehicular travel, even though it may be
19 temporarily closed or restricted for the purpose of
20 construction, maintenance, repair or reconstruction;

21 S. "secretary" means the secretary of [~~public safety~~]
22 transportation and, except for the purposes of Section 65-1-33
23 NMSA 1978, also includes [~~the~~] a deputy secretary and any
24 division director delegated by the secretary;

25 T. "state" or "jurisdiction" means a state, territory

.182722.3

underscored material = new
[bracketed material] = delete

1 or possession of the United States, the District of Columbia,
2 the commonwealth of Puerto Rico, a foreign country or a state
3 or province of a foreign country; and

4 U. "utility trailer" means any trailer, semitrailer
5 or pole trailer and includes house trailers that exceed neither
6 eight feet in width nor forty feet in length, but does not
7 include freight trailers, trailers of less than one-ton
8 carrying capacity used to transport animals or fertilizer
9 trailers of less than three thousand five hundred pounds empty
10 weight."

11 SECTION 48. Section 65-1-39 NMSA 1978 (being Laws 2007,
12 Chapter 54, Section 2) is amended to read:

13 "65-1-39. DEFINITIONS.--As used in Sections [~~1 through 8~~
14 ~~of this act~~] 65-1-39 through 65-1-45 NMSA 1978:

15 [~~A. "director" means the director of the division;~~

16 ~~B.] A. "department" means the department of [~~public~~
17 ~~safety~~] transportation;~~

18 B. "director" means the director of the division;

19 C. "division" means the motor transportation division
20 of the department;

21 D. "officer" means a commissioned officer of the
22 division;

23 E. "personnel board" means the personnel board
24 created in the Personnel Act; and

25 F. "secretary" means the secretary of [~~public safety~~]

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

1 transportation."

2 SECTION 49. Section 66-1-4.17 NMSA 1978 (being Laws 1990,
3 Chapter 120, Section 18, as amended) is amended to read:

4 "66-1-4.17. DEFINITIONS.--As used in the Motor Vehicle
5 Code:

6 A. "tank vehicle" means a motor vehicle that is
7 designed to transport any liquid or gaseous material within a
8 tank that is either permanently or temporarily attached to the
9 vehicle or the chassis and that has either a gross vehicle
10 weight rating of twenty-six thousand one or more pounds or is
11 used in the transportation of hazardous materials requiring
12 placarding of the vehicle under applicable law;

13 B. "taxicab" means a motor vehicle used for hire in
14 the transportation of persons, having a normal seating capacity
15 of not more than seven persons;

16 C. "temporary off-site location" means a location
17 other than a dealer's established or additional place of
18 business that is used exclusively for the display of vehicles
19 or vessels for sale or resale and for related business;

20 D. "through highway" means every highway or portion
21 of a highway at the entrance to which vehicular traffic from
22 intersecting highways is required by law to stop before
23 entering or crossing it when stop signs are erected as provided
24 in the Motor Vehicle Code;

25 E. "title service company" means a person, other than

.182722.3

underscored material = new
[bracketed material] = delete

1 the taxation and revenue department, an agent of the taxation
2 and revenue department, a licensed dealer or the motor
3 transportation division of the department of [~~public safety~~]
4 transportation, who for consideration issues temporary
5 registration plates or prepares and submits to the taxation and
6 revenue department on behalf of others applications for
7 registration of or title to motor vehicles;

8 F. "traffic" means pedestrians, ridden or herded
9 animals, vehicles and other conveyances either singly or
10 together using any highway for purposes of travel;

11 G. "traffic-control signal" means any device, whether
12 manually, electrically or mechanically operated, by which
13 traffic is alternately directed to stop and to proceed;

14 H. "traffic safety bureau" means the traffic safety
15 bureau of the department of transportation;

16 I. "trailer" means any vehicle without motive power,
17 designed for carrying persons or property and for being drawn
18 by a motor vehicle, and so constructed that no significant part
19 of its weight rests upon the towing vehicle;

20 J. "transaction" means all operations necessary at
21 one time with respect to one identification card, one driver,
22 one vessel or one vehicle;

23 K. "transportation inspector" means an employee of
24 the motor transportation division of the department of [~~public~~
25 ~~safety~~] transportation who has been certified by the director

.182722.3

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

1 of the division to enter upon and perform inspections of motor
2 carriers' vehicles in operation;

3 L. "transporter of manufactured homes" means a
4 commercial motor vehicle operation engaged in the business of
5 transporting manufactured homes from the manufacturer's
6 location to the first dealer's location. A "transporter of
7 manufactured homes" may or may not be associated with or
8 affiliated with a particular manufacturer or dealer;

9 M. "travel trailer" means a trailer with a camping
10 body and includes recreational travel trailers and camping
11 trailers;

12 N. "trial court" means the magistrate, municipal or
13 district court that tries the case concerning an alleged
14 violation of a provision of the Motor Vehicle Code;

15 O. "tribal court" means a court created by a tribe or
16 a court of Indian offense created by the United States
17 secretary of the interior;

18 P. "tribe" means an Indian nation, tribe or pueblo
19 located wholly or partially in New Mexico;

20 Q. "truck" means every motor vehicle designed, used
21 or maintained primarily for the transportation of property;

22 R. "truck camper" means a camping body designed to be
23 loaded onto, or affixed to, the bed or chassis of a truck. A
24 camping body, when combined with a truck or truck cab and
25 chassis, even though not attached permanently, becomes a part

.182722.3

underscored material = new
[bracketed material] = delete

1 of the motor vehicle, and together they are a recreational unit
2 to be known as a "truck camper"; there are three general types
3 of truck campers:

4 (1) "slide-in camper" means a camping body
5 designed to be loaded onto and unloaded from the bed of a
6 pickup truck;

7 (2) "chassis-mount camper" means a camping body
8 designed to be affixed to a truck cab and chassis; and

9 (3) "pickup cover" or "camper shell" means a
10 camping body designed to provide an all-weather protective
11 enclosure over the bed of a pickup truck and to be affixed to
12 the pickup truck; and

13 S. "truck tractor" means every motor vehicle designed
14 and used primarily for drawing other vehicles and constructed
15 to carry a part of the weight of the vehicle and load drawn."

16 SECTION 50. Section 74-4E-3 NMSA 1978 (being Laws 1989,
17 Chapter 149, Section 3, as amended) is amended to read:

18 "74-4E-3. DEFINITIONS.--As used in the Hazardous
19 Chemicals Information Act:

20 A. "commission" means the state emergency response
21 commission;

22 B. "department" or "division" means the homeland
23 security and emergency management division of the department of
24 public safety;

25 C. "emergency responder" means any law enforcement

.182722.3

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

1 officer, firefighter, medical services professional or other
2 person trained and equipped to respond to hazardous chemical
3 releases;

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

7 E. "facility owner or operator" means any individual,
8 trust, firm, joint stock company, corporation, partnership,
9 association, state agency, municipality or county having legal
10 control or authority over buildings, equipment, structures and
11 other stationary items that are located on a single site or on
12 contiguous or adjacent sites. For the purposes of Section
13 74-4E-5 NMSA 1978, the term includes owners or operators of
14 motor vehicles, rolling stock and aircraft;

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

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

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

.182722.3

underscored material = new
[bracketed material] = delete

1 SECTION 51. Section 74-13-9 NMSA 1978 (being Laws 2005,
2 Chapter 171, Section 9) is amended to read:

3 "74-13-9. SCRAP TIRE MANIFEST SYSTEM.--A scrap tire
4 generator ~~[who]~~ that transports or offers for transportation
5 scrap tires for offsite handling, altering, storage, disposal
6 or for any combination thereof shall complete a scrap tire
7 manifest pursuant to rules adopted by the board. Upon demand,
8 the manifest for every generator whose scrap tire load is
9 transported shall be shown to an officer of the motor
10 transportation division of the department of ~~[public safety]~~
11 transportation, the New Mexico state police, a local law
12 enforcement officer or the secretary or the secretary's
13 designee."

14 SECTION 52. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
15 APPROPRIATIONS AND PROPERTY--CONTRACTUAL OBLIGATIONS--STATUTORY
16 REFERENCES.--

17 A. On the effective date of this act, all functions,
18 appropriations, money, records, furniture, equipment and other
19 property of the homeland security and emergency management
20 department and the fire marshal division of the public
21 regulation commission shall be transferred to the department of
22 public safety.

23 B. On the effective date of this act, all functions,
24 appropriations, money, records, furniture, equipment and other
25 property of the motor transportation division of the department

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

1 of public safety shall be transferred to the department of
2 transportation.

3 C. On the effective date of this act, contractual
4 obligations of the motor transportation division of the
5 department of public safety are binding on the department of
6 transportation.

7 D. On the effective date of this act, contractual
8 obligations of the homeland security and emergency management
9 department and the fire marshal division of the public
10 regulation commission are binding on the department of public
11 safety.

12 E. On the effective date of this act, all references
13 in the law to the homeland security and emergency management
14 department shall be deemed to be references in law to the
15 homeland security and emergency management division of the
16 department of public safety. All references in the law to the
17 state director of homeland security and emergency management or
18 to the secretary of homeland security and emergency management
19 shall be deemed to be references to the director of the
20 homeland security and emergency management division of the
21 department of public safety.

22 F. On the effective date of this act, all references
23 in the law to the fire marshal division of the public
24 regulation commission shall be deemed to be references in law
25 to the fire marshal division of the department of public

.182722.3

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

1 safety.

2 G. On the effective date of this act, all references
3 in law to the motor transportation division of the department
4 of public safety shall be deemed to be references in law to the
5 motor transportation division of the department of
6 transportation. All references in law to the director of the
7 motor transportation division of the department of public
8 safety shall be deemed to be references to the director of the
9 motor transportation division of the department of
10 transportation.

11 SECTION 53. TEMPORARY PROVISION--RECOMPILATION.--Sections
12 8-8-9.1 and 8-8-9.3 NMSA 1978 (being Laws 2001, Chapter 80,
13 Section 1 and Laws 2007, Chapter 161, Section 4) are recompiled
14 in the Department of Public Safety Act.

15 SECTION 54. REPEAL.--Sections 9-28-1 through 9-28-7 NMSA
16 1978 (being Laws 2007, Chapter 291, Sections 1 through 6 and
17 35, as amended) are repealed.

18 SECTION 55. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2011.