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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; REORGANIZING THE DEPARTMENT OF FINANCE AND ADMINISTRATION; CENTRALIZING ADMINISTRATIVE FUNCTIONS OF CERTAIN EXECUTIVE AGENCIES INTO THE DEPARTMENT OF FINANCE AND ADMINISTRATION; ELIMINATING THE GENERAL SERVICES DEPARTMENT; CONSOLIDATING THE PERSONNEL OFFICE AND CERTAIN FUNCTIONS OF THE GENERAL SERVICES DEPARTMENT INTO THE DEPARTMENT OF FINANCE AND ADMINISTRATION; MOVING OTHER GENERAL SERVICES DEPARTMENT FUNCTIONS TO OTHER DEPARTMENTS; CREATING THE EXECUTIVE SERVICES BUREAU, PROPERTY CONTROL DIVISION, BUILDING SERVICES BUREAU, STATE PERSONNEL DIVISION AND PURCHASING DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION; TRANSFERRING APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 6-4-1 NMSA 1978 (being Laws 1975, Chapter 282, Section 3, as amended) is amended to read:

"6-4-1. CAPITAL PROGRAMS--PREPARATION--DUTIES.--

A. The department of finance and administration [~~and the general services department~~] shall [~~jointly~~] prepare, amend and maintain a four-year program of major state capital improvement projects recommended to be undertaken by the state or to be undertaken with state aid or under state regulation. The program shall classify projects with respect to urgency and need for realization, and it shall recommend a time sequence for construction. The program shall also contain the contract price or estimated cost of each project and it shall indicate probable operating and maintenance costs and probable revenues, if any, as well as existing sources of funds or the need for additional sources of funds for the construction and operation of each project.

B. Heads of departments and other agencies of the state shall transmit to the department of finance and administration on July 1 of each year a statement of all capital projects proposed for the ensuing four years for review and recommendation to the governor with respect to inclusion in the capital program of the state."

SECTION 2. Section 6-21D-6 NMSA 1978 (being Laws 2005,

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1 Chapter 176, Section 6) is amended to read:

2 "6-21D-6. CALCULATION OF COST SAVINGS--TRANSFERS TO  
3 ENERGY EFFICIENCY AND RENEWABLE ENERGY BONDING FUND.--

4 A. Upon the installation of energy efficiency  
5 measures in a state building or school district building, the  
6 department shall calculate the estimated energy cost savings,  
7 in the form of lower utility payments by the school district or  
8 the state, that will be annually realized as a result of the  
9 installation of the energy efficiency measures. The department  
10 shall certify the estimate to the department of finance and  
11 administration [~~and the general services department~~] or other  
12 state agency with jurisdiction, in the case of state buildings,  
13 and to the department of finance and administration, the public  
14 education department and the school district, in the case of  
15 school district buildings.

16 B. In the case of a school district building, when  
17 calculating the state equalization guarantee distribution  
18 pursuant to Section 22-8-25 NMSA 1978, the public education  
19 department shall deduct ninety percent of the amount certified  
20 for the school district by the department.

21 C. Reduction of a school district's state  
22 equalization guarantee distribution shall cease when the school  
23 district's cumulative reductions equal its proportional share  
24 of the cumulative debt service payments necessary to service  
25 the bonds issued pursuant to the Energy Efficiency and

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1 Renewable Energy Bonding Act.

2 D. Prior to June 30 of each year, the total amount  
3 deducted for all school districts pursuant to Subsection B of  
4 this section shall be transferred to the fund.

5 E. In the case of a state building, the department  
6 of finance and administration shall deduct from the operating  
7 budget of the agency responsible for paying the utilities of  
8 the state building ninety percent of the amount certified for  
9 the agency by the department.

10 F. Deduction from the operating budget of the  
11 agency responsible for paying the utilities of the state  
12 building shall cease when the agency's cumulative deductions  
13 equal its proportional share of the cumulative debt service  
14 payments necessary to service the bonds issued pursuant to the  
15 Energy Efficiency and Renewable Energy Bonding Act.

16 G. Prior to June 30 of each year, the total amount  
17 deducted for all agencies and all state buildings pursuant to  
18 Subsection D of this section shall be transferred from the  
19 appropriate funds to the [~~energy efficiency and renewable~~  
20 ~~energy bonding~~] fund."

21 SECTION 3. Section 6-23-5 NMSA 1978 (being Laws 1993,  
22 Chapter 231, Section 5, as amended) is amended to read:

23 "6-23-5. CONTRACT APPROVAL REQUIRED.--

24 A. A governmental unit shall not enter into a  
25 guaranteed utility savings contract with a qualified provider

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1 or any installment payment contract or lease-purchase agreement  
2 pursuant to that contract unless the contracts and agreements  
3 are reviewed and approved as follows:

4 (1) for school districts, by the  
5 ~~[superintendent of public instruction]~~ secretary of public  
6 education;

7 (2) for state agencies:

8 (a) if the facilities, systems or  
9 vehicles are owned, leased or otherwise controlled by the  
10 ~~[general services]~~ department of finance and administration, by  
11 the secretary of ~~[general services]~~ finance and administration;  
12 and

13 (b) if the facilities, systems or  
14 vehicles are not owned, leased or otherwise controlled by the  
15 ~~[general services]~~ department of finance and administration, by  
16 the executive head of the controlling state agency;

17 (3) for municipalities and counties, by the  
18 governing body of the municipality or county; and

19 (4) for all post-secondary educational  
20 institutions and the state educational institutions confirmed  
21 in Article 12, Section 11 of the constitution of New Mexico, by  
22 the ~~[commission on]~~ higher education department.

23 B. The approval required under this section shall  
24 be given upon:

25 (1) a determination that the contracts and

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1 agreements comply with the provisions of the Public Facility  
2 Energy Efficiency and Water Conservation Act and other  
3 applicable law;

4 (2) certification by the energy, minerals and  
5 natural resources department that the qualified provider of  
6 energy conservation measures meets the experience requirements  
7 set by the department and the guaranteed energy savings from  
8 the energy conservation measures proposed appear to be  
9 accurately estimated and reasonable; and

10 (3) certification by the office of the state  
11 engineer that the qualified provider of water conservation  
12 measures meets the experience requirements set by that office  
13 and the guaranteed water savings from the water conservation  
14 measures proposed appear to be accurately estimated and  
15 reasonable."

16 SECTION 4. Section 9-6-1 NMSA 1978 (being Laws 1977,  
17 Chapter 247, Section 1) is amended to read:

18 "9-6-1. SHORT TITLE.--~~[Sections 1 through 7 of this act]~~  
19 Chapter 9, Article 6 NMSA 1978 may be cited as the "Department  
20 of Finance and Administration Act".

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

23 "9-6-2. PURPOSE.--The purpose of the Department of  
24 Finance and Administration Act is to make state government more  
25 efficient and responsive through consolidating, and eliminating

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1 the overlapping of, certain state government functions; and to  
2 establish a single, unified department to administer laws  
3 relating to finance and administration of state government; and  
4 to perform other duties as provided by law."

5 SECTION 6. Section 9-6-3 NMSA 1978 (being Laws 1977,  
6 Chapter 247, Section 3, as amended) is repealed and a new  
7 Section 9-6-3 NMSA 1978 is enacted to read:

8 "9-6-3. [NEW MATERIAL] DEPARTMENT OF FINANCE AND  
9 ADMINISTRATION--CREATED--DIVISIONS.--

10 A. The "department of finance and administration"  
11 is created as a cabinet department that includes the following  
12 organizational units:

13 (1) office of the secretary;

14 (2) administrative services division,

15 including:

16 (a) executive services bureau; and

17 (b) capital outlay planning and

18 monitoring bureau;

19 (3) board of finance division;

20 (4) office of education accountability;

21 (5) financial control division;

22 (6) local government division;

23 (7) property control division, including:

24 (a) building services bureau; and

25 (b) governor's mansion bureau;

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1 (8) purchasing division, which includes the  
2 management and contracts review bureau;

3 (9) state budget division; and

4 (10) state personnel division.

5 B. The secretary may organize the department and  
6 the divisions specified in Subsection A of this section and may  
7 transfer or merge functions between divisions in the interest  
8 of efficiency and economy, but the secretary shall present the  
9 organization to the legislature for statutory revision. The  
10 secretary shall not create new divisions without the express  
11 authority of the legislature."

12 SECTION 7. A new section of Department of Finance and  
13 Administration Act is enacted to read:

14 "[NEW MATERIAL] ADMINISTRATIVELY ATTACHED AGENCIES.--The  
15 following agencies are administratively attached to the  
16 department:

17 A. the acequia commission;

18 B. the capitol buildings planning commission;

19 C. the governor's residence advisory commission;

20 D. the state board of finance;

21 E. the personnel board;

22 F. the New Mexico community development council;

23 G. the civil legal services commission; and

24 H. the land grant council."

25 SECTION 8. Section 9-17-8 NMSA 1978 (being Laws 2009,

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1 Chapter 70, Section 2) is repealed and a new section of Chapter  
2 9, Article 6 NMSA 1978 is enacted to read:

3 "[NEW MATERIAL] EQUIPMENT REPLACEMENT PLANS--EQUIPMENT  
4 REPLACEMENT REVOLVING FUNDS.--

5 A. In order to plan for the expenditure of capital  
6 investments necessary to provide goods and services to the  
7 state and its agencies and to local public bodies and other  
8 enterprise customers, the department of finance and  
9 administration shall establish and maintain a five-year  
10 equipment replacement plan for each of the department's  
11 enterprise functions. No later than December 1 of each year,  
12 the plans shall be submitted to the legislature, along with a  
13 reconciliation report reflecting financial activity in the  
14 preceding fiscal year in each of the equipment replacement  
15 revolving funds established pursuant to this section.

16 B. Upon the request of the secretary of finance and  
17 administration, the state treasurer shall establish such  
18 "equipment replacement revolving funds" in the state treasury  
19 as are necessary to administer each of the department's  
20 enterprise functions. The funds shall consist of legislative  
21 appropriations to the funds and transfers made to the funds  
22 pursuant to Subsections C and D of this section. Income from  
23 investment of the funds shall be credited to the funds, and  
24 money in the funds shall not revert at the end of a fiscal  
25 year. Expenditures from the funds shall be made only pursuant

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1 to an appropriation from the legislature and only for the  
2 purpose of acquiring and replacing capital equipment used to  
3 provide enterprise services, pursuant to the five-year  
4 equipment replacement plans.

5 C. The department shall record amounts due to the  
6 equipment replacement revolving funds each calendar quarter,  
7 based on the calculation of depreciation applicable to each  
8 enterprise as reflected in the department's published cost  
9 structures for calculation of rates for services. Transfers to  
10 the funds shall be made from the operating funds of each  
11 enterprise in amounts that reconcile with the recorded amounts  
12 due.

13 D. The department may make initial transfers from  
14 its operating funds to establish the beginning fund balances  
15 as of July 1, 2009. The transfers shall be based on amounts  
16 so designated in the audited financial statements of the  
17 department as of June 30, 2009.

18 SECTION 9. Section 9-6-4 NMSA 1978 (being Laws 1977,  
19 Chapter 247, Section 4, as amended) is amended to read:

20 "9-6-4. DEPARTMENT OF FINANCE AND ADMINISTRATION--  
21 SECRETARY--APPOINTMENT--QUALIFICATIONS.--The administrative  
22 and executive head of the department of finance and  
23 administration is the "secretary of finance and  
24 administration", who [~~shall be~~] is a member of the executive  
25 cabinet. The secretary shall be appointed by the governor

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1 with the advice and consent of the senate. The secretary  
2 shall be well versed in governmental finance."

3 SECTION 10. Section 9-6-5 NMSA 1978 (being Laws 1977,  
4 Chapter 247, Section 5, as amended) is amended to read:

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

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

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

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

24 (2) delegate authority to subordinates as  
25 [~~he~~] the secretary deems necessary and appropriate, clearly

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1 delineating such delegated authority and the limitations  
2 ~~[thereto]~~ of that authority;

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

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

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

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

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

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1 administration;

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

4 (9) provide [~~cooperation, at the request of~~  
5 ~~heads of~~] administrative services to administratively  
6 attached agencies and cooperate with adjunct agencies in  
7 order to:

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

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

12 ~~(c) resolve by agreement the manner~~  
13 ~~and extent to which the department shall provide budgeting,~~  
14 ~~record-keeping and related clerical assistance to~~  
15 ~~administratively attached agencies];~~

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

21 (11) serve as, or designate the deputy  
22 secretary to serve as, executive officer of the state board  
23 of finance

24 [~~(12) give bond as provided in the Surety~~  
25 ~~Bond Act. The department shall pay the cost of such bond;~~

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1 and

2 ~~(13) require faithful performance or other~~  
3 ~~fidelity bonds of such department employees and officers as~~  
4 ~~he deems necessary, as provided in the Surety Bond Act. The~~  
5 ~~department shall pay the costs of such bonds].~~

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

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

16 E. The secretary may make and adopt such  
17 reasonable administrative and procedural rules ~~[and~~  
18 ~~regulations]~~ as may be necessary to carry out the duties of  
19 the department and its divisions. No rule ~~[or regulation]~~  
20 promulgated by the director of any division or office in  
21 carrying out the functions and duties of the division or  
22 office shall be effective until approved by the secretary  
23 unless otherwise provided by statute. Unless otherwise  
24 provided by statute, no ~~[regulation]~~ rule affecting any  
25 person or agency outside the department shall be adopted,

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

17 SECTION 11. Section 9-6-5.1 NMSA 1978 (being Laws 1983,  
18 Chapter 296, Section 7) is amended to read:

19 "9-6-5.1. PLANNING POWERS AND DUTIES OF SECRETARY OF  
20 FINANCE AND ADMINISTRATION.--The secretary of ~~[the department~~  
21 ~~of]~~ finance and administration, in addition to the other  
22 powers and duties conferred:

23 A. shall review federal grant applications and  
24 provide management assistance to other state agencies and  
25 local governments;

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1           B. shall coordinate, in accordance with  
2 directives from the governor's office of policy and planning,  
3 state agency plans for economic, natural resource, energy  
4 resource and human resource development;

5           C. shall provide aid to planning and development  
6 districts in developing grant proposals and cooperate with  
7 other local entities in developing grant proposals;

8           D. shall acquire, study and review all plans for  
9 capital projects proposed by state agencies and render advice  
10 on the plans. The secretary shall maintain long-range  
11 estimates and plans for capital projects and develop  
12 standards for measuring the need for and utility of proposed  
13 projects;

14           E. may contract for, receive and utilize any  
15 grants or other financial assistance made available by the  
16 United States government or by any other source, public or  
17 private;

18           F. may provide planning and funding assistance to  
19 units of local government, council of government  
20 organizations, Indian tribal governments situated within New  
21 Mexico and ~~[to]~~ nonprofit entities having for their purpose  
22 local, regional or community betterment. The secretary,  
23 incident to any such programs, may enter into contracts and  
24 agreements with such units of local government, council of  
25 government organizations, Indian tribal governments,

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1 nonprofit entities and the federal government and may  
2 participate in or receive aid from any federal or private  
3 program in relation to such a planning program or assistance;

4 G. shall confer with the state budget division of  
5 the department of finance and administration in developing  
6 comprehensive plans to assure coordination of planning and  
7 budgeting functions;

8 H. shall coordinate the state clearinghouse  
9 review process;

10 I. shall develop a status of the state report;

11 J. shall review and coordinate comment by state  
12 agencies on draft environmental impact statements;

13 K. shall provide community development block  
14 grant technical assistance to local governments;

15 L. shall administer, in consultation with and  
16 upon advice and direction from the community development  
17 block grant policy committee, the program for the state  
18 community development block grant program;

19 M. shall serve as staff to the New Mexico  
20 association of regional councils;

21 N. shall maintain a state planning library; and

22 O. shall provide planning assistance to county  
23 and multicounty districts relative to application by such  
24 districts for financial assistance and for regional plan  
25 development."

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1           SECTION 12. Section 9-7-6.5 NMSA 1978 (being Laws 2005,  
2 Chapter 317, Section 1, as amended by Laws 2008, Chapter 4,  
3 Section 1 and by Laws 2008, Chapter 70, Section 1) is amended  
4 to read:

5           "9-7-6.5. AGREEMENTS FOR A REPLACEMENT FACILITY FOR  
6 FORT BAYARD MEDICAL CENTER.--

7           A. Notwithstanding any other provision of state  
8 law or rule, the secretary may do one or more of the  
9 following:

10                   (1) enter into an agreement, including an  
11 agreement with an independent contractor, to operate Fort  
12 Bayard medical center or a replacement for Fort Bayard  
13 medical center in Grant county;

14                   (2) acquire by purchase, lease,  
15 construction, lease-purchase or other financing arrangement a  
16 facility to be located in Grant county to replace Fort Bayard  
17 medical center, provided that, if the acquisition results in  
18 the transfer of the title to the facility, the title to the  
19 facility shall be in the name of the state and held by the  
20 property control division of the [~~general services~~]  
21 department of finance and administration; or

22                   (3) enter into an agreement with Grant  
23 county under which the department may construct or cause to  
24 be constructed the facility that will replace the Fort Bayard  
25 medical center.

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1           B. The provisions of the Procurement Code shall  
2 not apply to the procurement, by either the department or  
3 Grant county or both, of tangible personal property, services  
4 or construction deemed necessary by the department to  
5 effectuate the provisions of this section. However,  
6 agreements related to the acquisition of the facility to  
7 replace Fort Bayard medical center shall be subject to the  
8 provisions of state law regulating the acquisition and  
9 disposal of real property by governmental entities.

10           C. An operating agreement entered into pursuant  
11 to this section shall include provisions for the continued  
12 employment of all current and future Fort Bayard medical  
13 center employees, excluding management employees of the  
14 contractor, as state employees, entitled and subject to all  
15 the rights and responsibilities of state employees. Under  
16 the terms of the agreement and the overall direction of the  
17 department, the independent contractor shall provide  
18 management and supervision to state employees at Fort Bayard  
19 medical center, including the provision of work assignments,  
20 evaluations and promotional and disciplinary actions.

21           D. Pursuant to Section 15-3-35 NMSA 1978, the  
22 legislature ratifies and approves a lease-purchase agreement,  
23 in a form approved by the state board of finance, between the  
24 department, as lessee-purchaser and Grant county, as lessor-  
25 seller, for the facility that will replace the Fort Bayard

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1 medical center; provided that upon transfer of title, title  
2 to the facility shall be in the name of the state and held by  
3 the property control division [~~of the general services~~  
4 ~~department~~]."

5 SECTION 13. Section 10-7-8 NMSA 1978 (being Laws 1968,  
6 Chapter 49, Section 1, as amended) is amended to read:

7 "10-7-8. ANNUITIES AND DEFERRED COMPENSATION PLANS--  
8 REDUCTIONS FROM GROSS SALARIES.--State agencies, state or  
9 educational institutions and political subdivisions of the  
10 state shall be authorized to enter into salary reduction  
11 agreements with their employees for the purpose of purchasing  
12 annuity contracts and deferred compensation plans, offered by  
13 insurance companies, banks and savings and loan associations  
14 authorized to transact business in New Mexico, when the  
15 salary reduction will result in an income tax deferment for  
16 the employees under federal law. The salary reduction  
17 agreement shall provide that the employer is not liable to  
18 the employee in the event the plan provider becomes insolvent  
19 or income tax on the salary reductions is not deferred. Such  
20 annuity contracts and deferred compensation plans must be  
21 approved by the secretary of [~~general services~~] finance and  
22 administration for state agencies and the governing body of  
23 political subdivisions for such political subdivisions.  
24 State agencies, state or educational institutions and  
25 political subdivisions of the state shall further be

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1 authorized to deposit or invest funds deducted from an  
2 employee's salary or wages pursuant to any such approved  
3 deferred compensation plan. Any funds deducted from an  
4 employee's salary or wages pursuant to any such deferred  
5 compensation plan shall not be subject to any state law  
6 regulating or restricting the deposit or investment of public  
7 funds."

8 SECTION 14. Section 10-9-10 NMSA 1978 (being Laws 1961,  
9 Chapter 240, Section 7, as amended) is amended to read:

10 "10-9-10. BOARD DUTIES.--The board shall:

11 ~~[A. promulgate regulations to effectuate the~~  
12 ~~Personnel Act;~~

13 ~~B.]~~ A. hear appeals and make recommendations to  
14 employers;

15 ~~[G. hire, with the approval of the governor, a~~  
16 ~~director experienced in the field of personnel~~  
17 ~~administration;~~

18 ~~D. review budget requests prepared by the~~  
19 ~~director for the operation of the personnel program and make~~  
20 ~~appropriate recommendations thereon;~~

21 ~~E.]~~ B. make investigations, studies and audits  
22 necessary to the proper administration of the Personnel Act;

23 ~~[F.]~~ C. make an annual report to the governor at  
24 the end of each fiscal year; and

25 ~~[G. establish and maintain liaison with the~~

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1 ~~general services department; and~~

2           H.] D. represent the public interest in the  
3 improvement of personnel administration in the system."

4           SECTION 15. A new section of the Personnel Act is  
5 enacted to read:

6           "[NEW MATERIAL] STATE PERSONNEL DIRECTOR--  
7 QUALIFICATIONS--CLASSIFIED POSITION.--The "state personnel  
8 director" shall be a person of recognized character and  
9 ability appointed by the secretary of finance and  
10 administration based solely on the director's qualifications  
11 for the position without regard to political affiliation.  
12 The director shall have at least a master's degree in human  
13 resource management or public or business administration or a  
14 related field and at least seven years' progressive  
15 experience in applying the principles, methods and techniques  
16 of personnel administration. The state personnel director  
17 shall be confirmed by the senate."

18           SECTION 16. Section 10-9-12 NMSA 1978 (being Laws 1961,  
19 Chapter 240, Section 8, as amended) is amended to read:

20           "10-9-12. DIRECTOR DUTIES.--The director shall:

21           A. supervise all administrative and technical  
22 personnel activities of the state;

23           ~~[B. act as secretary to the board;~~

24           G.] B. establish, maintain and publish annually a  
25 roster of all employees of the state showing for each

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1 employee [~~his~~] the employee's division, title, pay rate and  
2 other pertinent data;

3 [~~D.~~] C. make annual reports to the board;

4 [~~E.~~] D. recommend to the [~~board~~] secretary of  
5 finance and administration rules [~~he~~] that the director  
6 considers necessary or desirable to effectuate the Personnel  
7 Act; and

8 [~~F.~~] E. supervise all tests and prepare lists of  
9 persons passing them to submit to prospective employers."

10 SECTION 17. Section 10-9-21 NMSA 1978 (being Laws 1961,  
11 Chapter 240, Section 15, as amended) is amended to read:

12 "10-9-21. PROHIBITED ACTS.--

13 A. No employer shall dismiss an employee for  
14 failure or refusal to pay or promise to pay any assessment,  
15 subscription or contribution to any political organization or  
16 candidate; however, nothing contained in this section shall  
17 prevent voluntary contributions to political organizations.

18 B. No person in the personnel office or employee  
19 in the service shall hold political office except for a non-  
20 partisan county or municipal office or be an officer of a  
21 political organization during [~~his~~] employment. For the  
22 purposes of the Personnel Act, being a local school board  
23 member or an elected board member of any post-secondary  
24 educational institution shall not be construed to be holding  
25 political office and being an election official shall not be

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1 construed to be either holding political office or being an  
2 officer of a political organization. Nothing in the  
3 Personnel Act shall deny employees the right to vote as they  
4 choose or to express their opinions on political subjects and  
5 candidates.

6 C. Any employee who becomes a candidate for  
7 public office shall, upon filing or accepting the nomination  
8 and during the campaign, take a leave of absence. This  
9 subsection does not apply to those employees of a grant-in-  
10 aid agency whose political activities are governed by federal  
11 statute.

12 D. The director shall investigate any written  
13 charge by any person that this section has been violated and  
14 take whatever steps deemed necessary.

15 E. No person shall be refused the right of taking  
16 an examination, from appointment to a position, from  
17 promotion or from holding a position because of political or  
18 religious opinions or affiliation or because of race or  
19 color.

20 F. No employee or probationer shall engage in  
21 partisan political activity while on duty.

22 G. With respect to employees of federal grant-in-  
23 aid agencies, the applicable personnel standards, regulations  
24 and federal laws limiting activities shall apply and shall be  
25 set forth in rules promulgated by the ~~[board]~~ department of

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1 finance and administration."

2 SECTION 18. Section 11-6A-1 NMSA 1978 (being Laws 1993,  
3 Chapter 65, Section 1) is amended to read:

4 "11-6A-1. SHORT TITLE.--~~[Sections 1 through 5 of this~~  
5 ~~act]~~ Chapter 11, Article 6A NMSA 1978 may be cited as the  
6 "Local DWI Grant Program Act"."

7 SECTION 19. Section 11-6A-2 NMSA 1978 (being Laws 1993,  
8 Chapter 65, Section 2) is amended to read:

9 "11-6A-2. DEFINITIONS.--As used in the Local DWI Grant  
10 Program Act:

11 A. "council" means the DWI grant council; and

12 B. "division" means the ~~[local government~~  
13 ~~division]~~ traffic safety bureau of the department of ~~[finance~~  
14 ~~and administration]~~ transportation."

15 SECTION 20. Section 11-6A-4 NMSA 1978 (being Laws 1993,  
16 Chapter 65, Section 4, as amended) is amended to read:

17 "11-6A-4. DWI GRANT COUNCIL--MEMBERSHIP--DUTIES.--

18 A. The "DWI grant council" is created and shall  
19 consist of the president of the New Mexico municipal league  
20 or ~~[his]~~ the president's designee, the president of the New  
21 Mexico association of counties or ~~[his]~~ the president's  
22 designee, the secretary of health or the secretary's  
23 designee, the secretary of finance and administration or the  
24 secretary's designee, the ~~[chief of the traffic safety bureau~~  
25 ~~of the state highway and transportation]~~ director of the

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1 local government division of the department of finance and  
2 administration and two representatives of local governing  
3 bodies who shall be appointed by the governor so as to  
4 provide geographic diversity.

5 B. Appointed members shall be appointed to a two-  
6 year term. In the event of a vacancy, the governor shall  
7 appoint a member for the remainder of the term.

8 C. The council shall meet as necessary to receive  
9 applications, consider grant requests and award DWI grants  
10 pursuant to the Local DWI Grant Program Act. All actions of  
11 the council require the affirmative vote of a majority of the  
12 members of the council.

13 D. Members of the council shall be reimbursed for  
14 per diem and mileage in accordance with the Per Diem and  
15 Mileage Act."

16 SECTION 21. Section 13-1-37 NMSA 1978 (being Laws 1984,  
17 Chapter 65, Section 10) is amended to read:

18 "13-1-37. DEFINITION--CENTRAL PURCHASING OFFICE.--  
19 "Central purchasing office" means that office or officer  
20 within a state agency or a local public body responsible for  
21 the control of procurement of items of tangible personal  
22 property, services or construction. "Central purchasing  
23 office" includes the purchasing division of the [~~general~~  
24 ~~services~~] department of finance and administration and the  
25 state purchasing agent."

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1           SECTION 22. Section 13-1-86 NMSA 1978 (being Laws 1984,  
2 Chapter 65, Section 59) is amended to read:

3           "13-1-86. DEFINITION--SECRETARY.--"Secretary" means the  
4 secretary of [~~general services~~] finance and administration."

5           SECTION 23. Section 13-1-90 NMSA 1978 (being Laws 1984,  
6 Chapter 65, Section 63) is amended to read:

7           "13-1-90. DEFINITION--STATE AGENCY.--"State agency"  
8 means any department, commission, council, board, committee,  
9 institution, legislative body, agency, government  
10 corporation, educational institution or official of the  
11 executive, legislative or judicial branch of the government  
12 of this state. "State agency" includes the purchasing  
13 division of the [~~general services~~] department of finance and  
14 administration and the state purchasing agent but does not  
15 include local public bodies."

16           SECTION 24. Section 13-1-92 NMSA 1978 (being Laws 1984,  
17 Chapter 65, Section 65) is amended to read:

18           "13-1-92. DEFINITION--STATE PURCHASING AGENT.--"State  
19 purchasing agent" means the director of the purchasing  
20 division of the [~~general services~~] department of finance and  
21 administration."

22           SECTION 25. Section 13-1-95 NMSA 1978 (being Laws 1984,  
23 Chapter 65, Section 68) is amended to read:

24           "13-1-95. PURCHASING DIVISION--CREATION--DIRECTOR IS  
25 STATE PURCHASING AGENT--APPOINTMENT--DUTIES.--

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1           A. The "purchasing division" is created within  
2 the [~~general services~~] department of finance and  
3 administration.

4           B. Subject to the authority of the secretary, the  
5 state purchasing agent shall be the administrator and [~~chief~~  
6 ~~executive~~] director of the purchasing division. The state  
7 purchasing agent shall be appointed by the secretary with the  
8 approval of the governor.

9           C. The purchasing division and state purchasing  
10 agent shall be responsible for the procurement of services,  
11 construction and items of tangible personal property for all  
12 state agencies except as otherwise provided in the  
13 Procurement Code and shall administer the Procurement Code  
14 for those state agencies not excluded from the requirement of  
15 procurement through the state purchasing agent.

16           D. The state purchasing agent shall have the  
17 following additional authority and responsibility to:

18                   (1) recommend procurement [~~regulations~~]  
19 rules to the secretary;

20                   (2) establish and maintain programs for the  
21 development and use of procurement specifications and for the  
22 inspection, testing and acceptance of services, construction  
23 and items of tangible personal property;

24                   (3) cooperate with the state budget division  
25 of the department of finance and administration in the

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1 preparation of statistical data concerning the acquisition  
2 and usage of all services, construction and items of tangible  
3 personal property by state agencies;

4 (4) require state agencies to furnish  
5 reports concerning usage, needs and stocks on hand of items  
6 of tangible personal property and usage and needs for  
7 services or construction;

8 (5) prescribe, with consent of the  
9 secretary, forms to be used by state agencies to requisition  
10 and report the procurement of items of tangible personal  
11 property, services and construction;

12 (6) provide information to state agencies  
13 and local public bodies concerning the development of  
14 specifications, quality control methods and other procurement  
15 information; and

16 (7) collect information concerning  
17 procurement matters, quality and quality control of commonly  
18 used services, construction and items of tangible personal  
19 property.

20 E. The state purchasing agent shall, upon the  
21 request of the central purchasing office of a local public  
22 body, procure a price agreement for the requested services,  
23 construction or items of tangible personal property."

24 **SECTION 26.** Section 13-1-97.1 NMSA 1978 (being Laws  
25 2009, Chapter 107, Section 1) is amended to read:

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1 "13-1-97.1. CONTRACT DATABASE.--

2 A. The department of finance and administration,  
3 the department of information technology and the department  
4 of transportation [~~and the general services department~~] shall  
5 jointly develop a database of all state contracts with a term  
6 beginning on or after January 1, 2010 and having a value of  
7 more than twenty thousand dollars (\$20,000) entered into  
8 pursuant to the Procurement Code or otherwise within the  
9 purview of any state agency. The [~~general services~~]  
10 department of finance and administration shall coordinate the  
11 maintenance of the database with the assistance of the other  
12 departments.

13 B. The [~~general services~~] department of finance  
14 and administration shall make the database available to the  
15 public on its online web site no later than January 1, 2010.  
16 The database shall be searchable by contractor name, subject  
17 matter, date, price or consideration, contract number,  
18 amendments and other categories of information that the  
19 departments identified in Subsection A of this section agree  
20 are necessary to inform the public fully about state  
21 contracts."

22 SECTION 27. Section 13-1-98 NMSA 1978 (being Laws 1984,  
23 Chapter 65, Section 71, as amended) is amended to read:

24 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
25 provisions of the Procurement Code shall not apply to:

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1           A. procurement of items of tangible personal  
2 property or services by a state agency or a local public body  
3 from a state agency, a local public body or external  
4 procurement unit except as otherwise provided in Sections  
5 13-1-135 through 13-1-137 NMSA 1978;

6           B. procurement of tangible personal property or  
7 services for the governor's mansion and grounds;

8           C. printing and duplicating contracts involving  
9 materials that are required to be filed in connection with  
10 proceedings before administrative agencies or state or  
11 federal courts;

12           D. purchases of publicly provided or publicly  
13 regulated gas, electricity, water, sewer and refuse  
14 collection services;

15           E. purchases of books and periodicals from the  
16 publishers or copyright holders thereof;

17           F. travel or shipping by common carrier or by  
18 private conveyance or to meals and lodging;

19           G. purchase of livestock at auction rings or to  
20 the procurement of animals to be used for research and  
21 experimentation or exhibit;

22           H. contracts with businesses for public school  
23 transportation services;

24           I. procurement of tangible personal property or  
25 services, as defined by Sections 13-1-87 and 13-1-93 NMSA

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1 1978, by the corrections industries division of the  
2 corrections department pursuant to rules adopted by the  
3 corrections industries commission, which shall be reviewed by  
4 the purchasing division of the [~~general services~~] department  
5 of finance and administration prior to adoption;

6 J. minor purchases not exceeding five thousand  
7 dollars (\$5,000) consisting of magazine subscriptions,  
8 conference registration fees and other similar purchases  
9 where prepayments are required;

10 K. municipalities having adopted home rule  
11 charters and having enacted their own purchasing ordinances;

12 L. the issuance, sale and delivery of public  
13 securities pursuant to the applicable authorizing statute,  
14 with the exception of bond attorneys and general financial  
15 consultants;

16 M. contracts entered into by a local public body  
17 with a private independent contractor for the operation, or  
18 provision and operation, of a jail pursuant to Sections  
19 33-3-26 and 33-3-27 NMSA 1978;

20 N. contracts for maintenance of grounds and  
21 facilities at highway rest stops and other employment  
22 opportunities, excluding those intended for the direct care  
23 and support of persons with handicaps, entered into by state  
24 agencies with private, nonprofit, independent contractors who  
25 provide services to persons with handicaps;

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1           O. contracts and expenditures for services or  
2 items of tangible personal property to be paid or compensated  
3 by money or other property transferred to New Mexico law  
4 enforcement agencies by the United States department of  
5 justice drug enforcement administration;

6           P. contracts for retirement and other benefits  
7 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

8           Q. contracts with professional entertainers;

9           R. contracts and expenditures for litigation  
10 expenses in connection with proceedings before administrative  
11 agencies or state or federal courts, including experts,  
12 mediators, court reporters, process servers and witness fees,  
13 but not including attorney contracts;

14           S. contracts for service relating to the design,  
15 engineering, financing, construction and acquisition of  
16 public improvements undertaken in improvement districts  
17 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and  
18 in county improvement districts pursuant to Subsection L of  
19 Section 4-55A-12.1 NMSA 1978;

20           T. works of art for museums or for display in  
21 public buildings or places;

22           U. contracts entered into by a local public body  
23 with a person, firm, organization, corporation or association  
24 or a state educational institution named in Article 12,  
25 Section 11 of the constitution of New Mexico for the

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1 operation and maintenance of a hospital pursuant to Chapter  
2 3, Article 44 NMSA 1978, lease or operation of a county  
3 hospital pursuant to the Hospital Funding Act or operation  
4 and maintenance of a hospital pursuant to the Special  
5 Hospital District Act;

6 V. purchases of advertising in all media,  
7 including radio, television, print and electronic;

8 W. purchases of promotional goods intended for  
9 resale by the tourism department;

10 X. procurement of printing services for materials  
11 produced and intended for resale by the cultural affairs  
12 department;

13 Y. procurement by or through the public education  
14 department from the federal department of education relating  
15 to parent training and information centers designed to  
16 increase parent participation, projects and initiatives  
17 designed to improve outcomes for students with disabilities  
18 and other projects and initiatives relating to the  
19 administration of improvement strategy programs pursuant to  
20 the federal Individuals with Disabilities Education Act;  
21 provided that the exemption applies only to procurement of  
22 services not to exceed two hundred thousand dollars  
23 (\$200,000);

24 Z. procurement of services from community  
25 rehabilitation programs or qualified individuals pursuant to

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1 the State Use Act;

2 AA. purchases of products or services for  
3 eligible persons with disabilities pursuant to the federal  
4 Rehabilitation Act of 1973;

5 BB. procurement, by either the department of  
6 health or Grant county or both, of tangible personal  
7 property, services or construction that are exempt from the  
8 Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

9 CC. contracts for investment advisory services,  
10 investment management services or other investment-related  
11 services entered into by the educational retirement board,  
12 the state investment officer or the retirement board created  
13 pursuant to the Public Employees Retirement Act;

14 DD. the purchase for resale by the state fair  
15 commission of feed and other items necessary for the upkeep  
16 of livestock; and

17 EE. contracts entered into by the crime victims  
18 reparation commission to distribute federal grants to assist  
19 victims of crime, including grants from the federal Victims  
20 of Crime Act and the federal Violence Against Women Act."

21 **SECTION 28.** Section 13-1-118 NMSA 1978 (being Laws  
22 1984, Chapter 65, Section 91) is amended to read:

23 "13-1-118. COMPETITIVE SEALED PROPOSALS--PROFESSIONAL  
24 SERVICES CONTRACTS--CONTRACT REVIEW.--All contracts for  
25 professional services with state agencies shall be reviewed

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1 as to form, legal sufficiency and budget requirements by the  
2 [~~general services department or the~~] department of finance  
3 and administration [~~if required by the regulations of either~~  
4 ~~or both of the departments~~]. This section shall not apply to  
5 contracts entered into by the legislative branch of state  
6 government, the judicial branch of state government or the  
7 boards of regents of state educational institutions named in  
8 Article 12, Section 11 of the constitution of New Mexico."

9 SECTION 29. Section 13-1-121 NMSA 1978 (being Laws  
10 1984, Chapter 65, Section 94, as amended) is amended to read:

11 "13-1-121. COMPETITIVE SEALED QUALIFICATIONS-BASED  
12 PROPOSALS--ARCHITECTS--ENGINEERS--LANDSCAPE ARCHITECTS--  
13 SURVEYORS--SELECTION COMMITTEE--STATE PUBLIC WORKS  
14 PROJECTS.--

15 A. The "architect, engineer, landscape architect  
16 and surveyor selection committee" is created. The committee,  
17 which shall serve as the selection committee for state public  
18 works projects, except for highway projects of the [~~state~~  
19 ~~highway and transportation~~] department of transportation, is  
20 composed of four members as follows:

21 (1) one member of the agency for which the  
22 project is being designed;

23 (2) the director of the property control  
24 division of the [~~general services~~] department of finance and  
25 administration, who shall be [~~chairman~~] chair;

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1 (3) one member designated by the [~~architect-~~  
2 ~~engineer-landscape architect~~] joint practice committee; and

3 (4) one member designated by the secretary.

4 B. The staff architect or [~~his~~] the staff  
5 architect's designee of the property control division shall  
6 serve as staff to the architect, engineer, landscape  
7 architect and surveyor selection committee.

8 [~~G. The members of the architect, engineer,~~  
9 ~~landscape architect and surveyor selection committee shall be~~  
10 ~~reimbursed by the property control division for per diem and~~  
11 ~~mileage in accordance with the provisions of the Per Diem and~~  
12 ~~Mileage Act.~~

13 ~~D.]~~ C. The [~~state highway and transportation~~]  
14 department of transportation shall create a selection  
15 committee by rule, after notice and hearing, [~~which~~] that  
16 shall serve as the selection committee for highway projects  
17 of the department."

18 SECTION 30. Section 13-1-125 NMSA 1978 (being Laws  
19 1984, Chapter 65, Section 98, as amended) is amended to read:

20 "13-1-125. SMALL PURCHASES.--

21 A. A central purchasing office shall procure  
22 services, construction or items of tangible personal property  
23 having a value not exceeding twenty thousand dollars  
24 (\$20,000) in accordance with the applicable small purchase  
25 [~~regulations~~] rules adopted by the secretary, a local public

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1 body or a central purchasing office that has the authority to  
2 issue [~~regulations~~] rules.

3 B. Notwithstanding the requirements of Subsection  
4 A of this section, a central purchasing office may procure  
5 professional services having a value not exceeding fifty  
6 thousand dollars (\$50,000), excluding applicable state and  
7 local gross receipts taxes, except for the services of  
8 landscape architects or surveyors for state public works  
9 projects or local public works projects, in accordance with  
10 professional services procurement [~~regulations~~] rules  
11 promulgated by the department of finance and administration  
12 [~~the general services department~~] or a central purchasing  
13 office with the authority to issue [~~regulations~~] rules.

14 C. Notwithstanding the requirements of Subsection  
15 A of this section, a state agency or a local public body may  
16 procure services, construction or items of tangible personal  
17 property having a value not exceeding ten thousand dollars  
18 (\$10,000) by issuing a direct purchase order to a contractor  
19 based upon the best obtainable price.

20 D. Procurement requirements shall not be  
21 artificially divided so as to constitute a small purchase  
22 under this section."

23 SECTION 31. Section 13-1-135.1 NMSA 1978 (being Laws  
24 1995, Chapter 60, Section 2) is amended to read:

25 "13-1-135.1. RECYCLED CONTENT GOODS--COOPERATIVE

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1       PROCUREMENT.--

2               A.   Beginning July 1, 1995, each central  
3       purchasing office shall, whenever its price, quality,  
4       quantity, availability and delivery requirements are met,  
5       purchase recycled content goods through contracts established  
6       by the purchasing division of the [~~general services~~]  
7       department of finance and administration or with other  
8       central purchasing offices.

9               B.   For purposes of this section, "recycled  
10       content goods" means supplies and materials composed in whole  
11       or in part of recycled materials; provided that the recycled  
12       materials content meets or exceeds the minimum content  
13       standards required by bid specifications."

14              **SECTION 32.**   Section 13-1-136 NMSA 1978 (being Laws  
15       1984, Chapter 65, Section 109) is amended to read:

16              "13-1-136.   COOPERATIVE PROCUREMENT--REPORTS REQUIRED.--  
17       The [~~general services department and the~~] department of  
18       finance and administration shall notify the state purchasing  
19       agent on or before January 1 of each year of the cooperative  
20       procurement agreements entered into by state agencies with  
21       local public bodies or external procurement units during the  
22       preceding fiscal year."

23              **SECTION 33.**   Section 13-1C-3 NMSA 1978 (being Laws 2005,  
24       Chapter 334, Section 3) is amended to read:

25              "13-1C-3.   DEFINITIONS.--As used in the State Use Act:

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1           A. "central nonprofit agency" means a nonprofit  
2 agency approved pursuant to rules of the council to  
3 facilitate the equitable distribution of orders for the  
4 services of:

5                   (1) qualified individuals; and

6                   (2) community rehabilitation programs;

7           B. "community rehabilitation program" means a  
8 nonprofit entity:

9                   (1) that is organized under the laws of the  
10 United States or this state, operated in the interest of  
11 persons with disabilities and operated so that no part of the  
12 income of which inures to the benefit of any shareholder or  
13 other person;

14                   (2) that complies with applicable  
15 occupational health and safety standards as required by  
16 federal or state law; and

17                   (3) that, in the provision of services,  
18 whether or not procured under the State Use Act, employs  
19 during the state fiscal year at least seventy-five percent  
20 persons with disabilities in direct labor for the provision  
21 of services;

22           C. "council" means the New Mexico council for  
23 purchasing from persons with disabilities;

24           D. "direct labor" means all work directly  
25 relating to the provision of services, but not work required

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1 for or relating to supervision, administration or inspection;

2 E. "local public body" means a political  
3 subdivision of the state and the political subdivision's  
4 agencies, instrumentalities and institutions;

5 F. "persons with disabilities" means persons who  
6 have a mental or physical impairment that constitutes or  
7 results in a substantial impediment to employment as defined  
8 by the federal Rehabilitation Act of 1973;

9 G. "qualified individual" means a person with a  
10 disability who is a business owner, or a business that is  
11 primarily owned and operated by persons with disabilities  
12 that employs at least seventy-five percent persons with  
13 disabilities in the provision of direct labor, which has been  
14 approved by the council to provide services to state agencies  
15 and local public bodies. A person who is receiving services  
16 pursuant to an individualized plan of employment from the  
17 vocational rehabilitation division of the public education  
18 department or from the commission for the blind shall be  
19 presumed to be a person with disability, as shall a person  
20 who is receiving supplemental security income or social  
21 security benefits based on disability;

22 H. "state agency" means a department, commission,  
23 council, board, committee, institution, legislative body,  
24 agency, government corporation, educational institution or  
25 official of the executive, legislative or judicial branch of

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1 government of this state; and

2 I. "state purchasing agent" means the director of  
3 the purchasing division of the [~~general services~~] department  
4 of finance and administration."

5 SECTION 34. Section 13-4A-3 NMSA 1978 (being Laws 1986,  
6 Chapter 11, Section 3, as amended) is amended to read:

7 "13-4A-3. DEFINITIONS.--As used in the Art in Public  
8 Places Act:

9 A. "agency" means all state departments and  
10 agencies, boards, councils, institutions, commissions and  
11 quasi-public corporations, including all state educational  
12 institutions enumerated in Article 12, Section 11 of the  
13 constitution of New Mexico, and all statutorily created post-  
14 secondary educational institutions;

15 B. "architect" means the person or firm designing  
16 the project for the contracting agency to which the one  
17 percent provision pursuant to Section 13-4A-4 NMSA 1978  
18 applies;

19 C. "contracting agency" means the agency having  
20 the control, management and power to enter into contracts for  
21 new construction or renovation of any public building;

22 D. "division" means the arts division of the  
23 [~~office of~~] cultural affairs department;

24 E. "public buildings" means those buildings under  
25 the control and management of the property control division of

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1 the [~~general services~~] department of finance and administration,  
2 the department of game and fish, the energy, minerals and  
3 natural resources department, the [~~state highway and~~] department  
4 of transportation [~~department~~], the state fair commission, the  
5 supreme court, the commissioner of public lands, the [~~office of~~]  
6 cultural affairs department, the governing boards of the state  
7 educational institutions and statutorily created post-secondary  
8 educational institutions, the [~~state department of~~] public  
9 education department and the legislature or all buildings  
10 constructed with funds appropriated by the legislature. For the  
11 purposes of the Art in Public Places Act, "public buildings"  
12 does not include such auxiliary buildings as maintenance plants,  
13 correctional facilities, warehouses or temporary structures; and

14 F. "work of art" means any work of visual art,  
15 including but not limited to a drawing, painting, mural,  
16 fresco, sculpture, mosaic or photograph; a work of  
17 calligraphy; a work of graphic art, including an etching,  
18 lithograph, offset print, silk screen or a work of graphic  
19 art of like nature; works in clay, textile, fiber, wood,  
20 metal, plastic, glass and like materials; or mixed media,  
21 including a collage or assemblage or any combination of [~~the~~  
22 ~~foregoing~~] visual art media [~~which~~] that is chosen to be  
23 included in or immediately adjoining the public building  
24 under consideration. Under special circumstances, the term  
25 may include environmental landscaping if approved by the

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1 division."

2 SECTION 35. Section 13-6-1 NMSA 1978 (being Laws 1961,  
3 Chapter 100, Section 1, as amended) is amended to read:

4 "13-6-1. DISPOSITION OF OBSOLETE, WORN-OUT OR UNUSABLE  
5 TANGIBLE PERSONAL PROPERTY.--

6 A. The governing authority of each state agency,  
7 local public body, school district and state educational  
8 institution may dispose of any item of tangible personal  
9 property belonging to that authority and delete the item from  
10 its public inventory upon a specific finding by the authority  
11 that the item of property is:

12 (1) of a current resale value of five thousand  
13 dollars (\$5,000) or less; and

14 (2) worn-out, unusable or obsolete to the  
15 extent that the item is no longer economical or safe for  
16 continued use by the body.

17 B. The governing authority shall, as a prerequisite  
18 to the disposition of any items of tangible personal  
19 property:

20 (1) designate a committee of at least three  
21 officials of the governing authority to approve and oversee  
22 the disposition; and

23 (2) give notification at least thirty days  
24 prior to its action making the deletion by sending a copy of  
25 its official finding and the proposed disposition of the

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1 property to the state auditor and the appropriate approval  
2 authority designated in Section 13-6-2 NMSA 1978, duly sworn  
3 and subscribed under oath by each member of the authority  
4 approving the action.

5 C. A copy of the official finding and proposed  
6 disposition of the property sought to be disposed of shall be  
7 made a permanent part of the official minutes of the  
8 governing authority and maintained as a public record subject  
9 to the Inspection of Public Records Act.

10 D. The governing authority shall dispose of the  
11 tangible personal property by negotiated sale to any  
12 governmental unit of an Indian nation, tribe or pueblo in New  
13 Mexico or by negotiated sale or donation to other state  
14 agencies, local public bodies, school districts, state  
15 educational institutions or municipalities or through the  
16 central purchasing office of the governing authority by means  
17 of competitive sealed bid or public auction or, if a state  
18 agency, through the surplus property bureau of the  
19 transportation services division of the [~~general services~~]  
20 department of transportation.

21 E. A state agency shall give the surplus property  
22 bureau [~~of the transportation services division of the~~  
23 ~~general services department~~] the right of first refusal when  
24 disposing of obsolete, worn-out or unusable tangible personal  
25 property of the state agency.

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1           F. If the governing authority is unable to dispose  
2 of the tangible personal property pursuant to Subsection D or  
3 E of this section, the governing authority may sell or, if  
4 the property has no value, donate the property to any  
5 organization described in Section 501(c)(3) of the Internal  
6 Revenue Code of 1986.

7           G. If the governing authority is unable to dispose  
8 of the tangible personal property pursuant to Subsection D, E  
9 or F of this section, it may order that the property be  
10 destroyed or otherwise permanently disposed of in accordance  
11 with applicable laws.

12           H. If the governing authority determines that the  
13 tangible personal property is hazardous or contains hazardous  
14 materials and may not be used safely under any circumstances,  
15 the property shall be destroyed and disposed of pursuant to  
16 Subsection G of this section.

17           I. No tangible personal property shall be donated  
18 to an employee or relative of an employee of a state agency,  
19 local public body, school district or state educational  
20 institution; provided that nothing in this subsection  
21 precludes an employee from participating and bidding for  
22 public property at a public auction.

23           J. This section shall not apply to any property  
24 acquired by a museum through abandonment procedures pursuant  
25 to the Abandoned Cultural Properties Act."

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1           SECTION 36. Section 13-6-2 NMSA 1978 (being Laws 1979,  
2 Chapter 195, Section 3, as amended) is amended to read:

3           "13-6-2. SALE OF PROPERTY BY STATE AGENCIES OR LOCAL  
4 PUBLIC BODIES--AUTHORITY TO SELL OR DISPOSE OF PROPERTY--  
5 APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

6           A. Providing a written determination has been made,  
7 a state agency, local public body, school district or state  
8 educational institution may sell or otherwise dispose of real  
9 or tangible personal property belonging to the state agency,  
10 local public body, school district or state educational  
11 institution.

12           B. A state agency, local public body, school  
13 district or state educational institution may sell or  
14 otherwise dispose of real property:

15                   (1) by negotiated sale or donation to an  
16 Indian nation, tribe or pueblo located wholly or partially in  
17 New Mexico, or to a governmental unit of an Indian nation,  
18 tribe or pueblo in New Mexico, that is authorized to purchase  
19 land and control activities on its land by an act of congress  
20 or to purchase land on behalf of the Indian nation, tribe or  
21 pueblo;

22                   (2) by negotiated sale or donation to other  
23 state agencies, local public bodies, school districts or  
24 state educational institutions;

25                   (3) through the central purchasing office of

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1 the state agency, local public body, school district or state  
2 educational institution by means of competitive sealed bid,  
3 public auction or negotiated sale to a private person or to  
4 an Indian nation, tribe or pueblo in New Mexico; or

5 (4) if a state agency, through the surplus  
6 property bureau of the transportation services division of  
7 the [~~general services~~] department of transportation.

8 C. A state agency shall give the surplus property  
9 bureau [~~of the transportation services division of the~~  
10 ~~general services department~~] the right of first refusal to  
11 dispose of tangible personal property of the state agency. A  
12 school district may give the surplus property bureau the  
13 right of first refusal to dispose of tangible personal  
14 property of the school district.

15 D. Except as provided in Section 13-6-2.1 NMSA 1978  
16 requiring state board of finance approval for certain  
17 transactions, sale or disposition of real or tangible  
18 personal property having a current resale value of more than  
19 five thousand dollars (\$5,000) may be made by a state agency,  
20 local public body, school district or state educational  
21 institution if the sale or disposition has been approved by  
22 the state budget division of the department of finance and  
23 administration for state agencies, the local government  
24 division of the department of finance and administration for  
25 local public bodies and the public education department for

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1 school districts [~~and the higher education department for~~  
2 ~~state educational institutions~~].

3 E. Prior approval of the appropriate approval  
4 authority is not required if the tangible personal property  
5 is to be used as a trade-in or exchange pursuant to the  
6 provisions of the Procurement Code.

7 F. The appropriate approval authority may condition  
8 the approval of the sale or other disposition of real or  
9 tangible personal property upon the property being offered  
10 for sale or donation to a state agency, local public body,  
11 school district or state educational institution.

12 G. The appropriate approval authority may credit a  
13 payment received from the sale of such real or tangible  
14 personal property to the governmental body making the sale.  
15 The state agency, local public body or school district [~~or~~  
16 ~~state educational institution~~] may convey all or any interest  
17 in the real or tangible personal property without warranty.

18 H. This section does not apply to:

- 19 (1) computer software of a state agency;  
20 (2) those institutions specifically enumerated  
21 in Article 12, Section 11 of the constitution of New Mexico;  
22 (3) the New Mexico state police division of  
23 the department of public safety;  
24 (4) the state land office or the department of  
25 transportation;

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1 (5) property acquired by a museum through  
2 abandonment procedures pursuant to the Abandoned Cultural  
3 Properties Act;

4 (6) leases of county hospitals with any person  
5 pursuant to the Hospital Funding Act;

6 (7) property acquired by the economic  
7 development department pursuant to the Statewide Economic  
8 Development Finance Act; and

9 (8) the state parks division of the energy,  
10 minerals and natural resources department."

11 SECTION 37. Section 13-6-6 NMSA 1978 (being Laws 2007,  
12 Chapter 57, Section 1) is amended to read:

13 "13-6-6. SURPLUS PROPERTY BUREAU CREATED--DUTIES--  
14 POWERS.--

15 A. The "surplus property bureau" is created in the  
16 transportation services division of the [~~general services~~]  
17 department of transportation. The surplus property bureau is  
18 designated as the New Mexico agency responsible for  
19 distribution of federal surplus personal property, excepting  
20 food commodities, in accordance with subdivision (j) of  
21 Section 203 of the Federal Property and Administrative  
22 Services Act of 1949. The surplus property bureau is also  
23 designated as the agency for distribution or disposal of  
24 state surplus property.

25 B. The surplus property bureau shall:

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1                   (1) develop a detailed state plan of operation  
2 for the management and administration of surplus property  
3 acquired from the federal government that complies with the  
4 Federal Property and Administrative Services Act of 1949 and  
5 regulations promulgated in accordance with that act;

6                   (2) cooperate with the federal government  
7 and its agencies in securing the expeditious and equitable  
8 distribution of federal surplus personal property, excepting  
9 food commodities, to eligible institutions in New Mexico, and  
10 assist those institutions in securing that property;

11                   (3) dispose of unusable federal surplus  
12 property in accordance with subdivision (j) of Section 203 of  
13 the Federal Property and Administrative Services Act of 1949;  
14 and

15                   (4) manage a program to recycle, donate, sell  
16 or dispose of state surplus tangible personal property.

17                   C. The surplus property bureau may:

18                   (1) enter into agreements with the federal  
19 government or its agencies for the purchase, lease, receipt  
20 as a loan or gift or any other means of acquisition of any  
21 real or personal property without regard to provisions of  
22 state law that require:

23                               (a) the posting of notices or public  
24 advertising for bids;

25                               (b) the inviting or receiving of

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1 competitive bids; or

2 (c) the delivery of purchases before  
3 payment;

4 (2) enter into cooperative agreements for the  
5 sale, transfer or disposal of federal surplus property that  
6 has not been distributed;

7 (3) enter into contracts with other state  
8 agencies for the purpose of acquiring or disposing of any  
9 tangible personal property originally purchased with state  
10 money as specified by rule of the transportation services  
11 division of the [~~general services~~] department of of  
12 transportation; and

13 (4) designate the representative of a user to  
14 enter a bid at a sale of real or personal property owned by  
15 the United States government or any agency or department  
16 thereof and authorize that person to make payment required in  
17 connection with the bidding."

18 SECTION 38. Section 13-6-7 NMSA 1978 (being Laws 2007,  
19 Chapter 57, Section 2) is amended to read:

20 "13-6-7. SURPLUS PROPERTY FUND--CREATED--  
21 EXPENDITURES.--

22 A. The "surplus property fund" is created as a  
23 nonreverting fund in the state treasury. The fund consists  
24 of money received from the sale of surplus property by the  
25 surplus property bureau of the transportation services

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1 division of the [~~general services~~] department of of  
2 transportation. The surplus property bureau shall administer  
3 the fund, and money in the fund is subject to appropriation  
4 by the legislature to carry out activities relating to the  
5 acquisition, transfer and sale of surplus government  
6 property. Money in the fund shall be disbursed on vouchers  
7 approved and warrants signed by the [~~director of the~~  
8 ~~transportation services division of the general services~~  
9 ~~department or the director's~~] secretary of transportation or  
10 the secretary's authorized representative.

11 B. Money in the surplus property fund attributable  
12 to the sale of federal property shall be held and accounted  
13 for separately from money attributable to the purchase or  
14 sale of state property."

15 SECTION 39. Section 13-6-8 NMSA 1978 (being Laws 2007,  
16 Chapter 57, Section 3) is amended to read:

17 "13-6-8. DISPOSITION OF STATE PROPERTY.--The surplus  
18 property bureau of the transportation services division of  
19 the [~~general services~~] department of of transportation may  
20 dispose of tangible personal property, except property  
21 acquired from the United States government, by advertising  
22 the availability of the property as follows:

23 A. for the first forty-five-day period, to any  
24 agency that has entered into an agreement with the bureau;

25 B. for the second forty-five-day period, to any

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1 agency or tax-exempt entity that has filed its written  
2 certificate of tax exemption with the bureau;

3 C. for the third forty-five-day period, to any  
4 agency or tax-exempt entity or to the public through a  
5 storefront operation on days and at times specified by rule  
6 of the bureau; and

7 D. after the third forty-five-day period, by  
8 auction or any other means of disposal in compliance with  
9 environmental standards for disposal of tangible personal  
10 property."

11 SECTION 40. Section 14-3-3 NMSA 1978 (being Laws 1959,  
12 Chapter 245, Section 3, as amended) is amended to read:

13 "14-3-3. STATE COMMISSION OF PUBLIC RECORDS--  
14 CREATION.--

15 A. A "state commission of public records" is  
16 established consisting of:

17 (1) the secretary of state;

18 [~~(2)~~] ~~the secretary of general services;~~

19 ~~(3)]~~ (2) the ~~[state law]~~ librarian of the  
20 supreme court law library;

21 [~~(4)]~~ (3) the director of the museum of New  
22 Mexico division of the cultural affairs department;

23 [~~(5)]~~ (4) the state auditor;

24 [~~(6)]~~ (5) the attorney general; and

25 [~~(7)]~~ (6) a recognized, professionally trained

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1 historian in the field of New Mexico history who is a  
2 resident in New Mexico, appointed by the governor for a term  
3 of six years.

4 B. Each member of the commission may designate an  
5 alternate to serve in [~~his~~] the member's stead.

6 [~~B.~~] C. The commission shall elect one of its  
7 members to be [~~chairman~~] chair and another to be secretary.  
8 The members of the commission shall serve without  
9 compensation other than actual expenses of attending meetings  
10 of the commission or while in performance of their official  
11 duties in connection with the business of the commission.

12 [~~C.~~] D. The commission shall hold not less than  
13 four meetings during each calendar year and may hold special  
14 meetings as may be necessary to transact business of the  
15 commission. All meetings shall be called by the [~~chairman~~]  
16 chair or when requested in writing by any two members of the  
17 commission. Four members of the commission shall constitute  
18 a quorum.

19 [~~D.~~] E. The administrator shall attend all meetings  
20 of the commission."

21 **SECTION 41.** Section 14-3-6 NMSA 1978 (being Laws 1959,  
22 Chapter 245, Section 6, as amended) is amended to read:

23 "14-3-6. ADMINISTRATOR--DUTIES.--

24 A. The administrator is the official custodian and  
25 trustee for the state of all public records and archives of

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1 whatever kind ~~[which]~~ that are transferred to ~~[him]~~ the  
2 administrator from any public office of the state or from any  
3 other source. ~~[He]~~ The administrator shall have overall  
4 administrative responsibility for carrying out the purposes of  
5 the Public Records Act and may employ necessary personnel,  
6 purchase equipment and provide facilities as may be required in  
7 the execution of the powers conferred and duties imposed upon  
8 ~~[him. — He]~~ the administrator.

9 B. The administrator shall keep the commission  
10 advised throughout the year of operations conducted and future  
11 operations projected and shall report annually to the  
12 commission which records have been destroyed, transferred or  
13 otherwise processed during the year.

14 C. The administrator shall establish a records  
15 management program for the application of efficient and  
16 economical management methods to the creation, utilization,  
17 maintenance, retention, preservation and disposal of official  
18 records. It shall be the duty of the administrator, in  
19 cooperation with and with the approval of the ~~[general services~~  
20 ~~department]~~ commission, to establish standards, procedures and  
21 techniques for effective management of public records, to make  
22 continuing surveys of paperwork operations and to recommend  
23 improvements in current records management practices, including  
24 the use of space, equipment and supplies employed in creating,  
25 maintaining and servicing records.

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1           D. It [~~shall be~~] is the duty of the head of each  
2 state agency to cooperate with the administrator in conducting  
3 surveys and to establish and maintain an active, continuing  
4 program for the economical and efficient management of the  
5 agency's records.

6           E. The administrator shall establish records disposal  
7 schedules for the orderly retirement of records and adopt  
8 [~~regulations~~] rules necessary for the carrying out of the  
9 Public Records Act. Records disposal schedules shall be filed  
10 with the librarian of the supreme court law library and shall  
11 not become effective until thirty days after the date of  
12 filing. Records so scheduled may be transferred to the records  
13 center at regular intervals, in accordance with the  
14 [~~regulations~~] rules of the administrator."

15           SECTION 42. Section 14-3-22 NMSA 1978 (being Laws 1977,  
16 Chapter 209, Section 1, as amended) is amended to read:

17           "14-3-22. PUBLIC POLICY ON CERTAIN PUBLICATIONS--STATE  
18 COMMISSION OF PUBLIC RECORDS DUTIES.--

19           A. It is the intent of the legislature and the public  
20 policy of this state to reduce unnecessary expense to the  
21 taxpayers of this state in connection with publications of  
22 state agencies designed primarily for the purpose of reporting  
23 to or the informing of the governor, the legislature, other  
24 state agencies or the political subdivisions of this state.

25           B. The [~~state~~] commission [~~of public records~~] shall

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1 develop and adopt [~~regulations which shall be~~] rules that are  
2 binding upon all state agencies. The [~~regulations~~] rules shall  
3 provide for uniform standards for those publications set forth  
4 in Subsection A of this section and shall include [~~but be not~~  
5 ~~limited to~~]:

6 (1) a standard size format to accommodate paper  
7 of the most economical type available;

8 (2) prohibiting the use of expensive covers,  
9 binders and fasteners;

10 (3) prohibiting the use of photographs, art work  
11 and design, unless absolutely necessary for clarification of  
12 the report;

13 (4) limiting the use of color stock paper, where  
14 such color stock would be more expensive than the use of white  
15 paper; and

16 [~~(5) requiring offset or mimeograph or other~~  
17 ~~means of duplication when it cannot be demonstrated that~~  
18 ~~printing of such publication would be equal to or less than the~~  
19 ~~cost of offset, mimeograph or other means of duplication]~~

20 (5) requiring the least expensive method of  
21 duplicating the publication.

22 C. The [~~state~~] commission [~~of public records~~] shall  
23 maintain constant and continuing supervision of such  
24 publications by state agencies and shall report persistent  
25 violations of the [~~regulations~~] rules made pursuant to this

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1 [act] section to the secretary of [~~general services~~] finance  
2 and administration and to the legislative finance committee."

3 SECTION 43. Section 14-11-7 NMSA 1978 (being Laws 1937,  
4 Chapter 167, Section 5, as amended) is amended to read:

5 "14-11-7. RATES FOR LEGAL NOTICE OR ADVERTISEMENT--  
6 COSTS.--

7 A. For publication of all legal notices or  
8 advertisements that a governmental entity is required by law or  
9 the order of any court of record in this state to publish in  
10 newspapers, the publishers shall be paid a reasonable rate, to  
11 be set by rule [~~or regulation~~] of the secretary of [~~general~~  
12 ~~services~~] finance and administration. Changes in economic  
13 conditions within the newspaper industry, the general economy  
14 and inflation shall be considered in determining a reasonable  
15 rate.

16 B. The clerk of any court in the state or any public  
17 trustee, county treasurer or other public officer required by  
18 law to publish legal notices or advertisements shall tax the  
19 cost of publishing notices or advertisements, as prescribed in  
20 this section, as part of the costs of the cause or proceeding  
21 and shall collect for publication before the cause or  
22 proceeding is closed and shall remit to the publisher the  
23 proper cost of the legal notices or advertisements."

24 SECTION 44. Section 15-3-35 NMSA 1978 (being Laws 2007,  
25 Chapter 184, Section 1) is amended to read:

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1 "15-3-35. LEASE-PURCHASE AGREEMENTS--APPROVAL OF  
2 LEGISLATURE.--

3 A. A financing agreement under which a state agency  
4 is to occupy a building or other real property and that  
5 contains an option to purchase for a price that is reduced  
6 according to the lease payments made is subject to the  
7 following criteria:

8 (1) the agreement shall not become effective  
9 until it has been ratified and approved by the legislature; and

10 (2) if the state agency is subject to the  
11 jurisdiction of the property control division of the [~~general~~  
12 ~~services~~] department of finance and administration pursuant to  
13 the Property Control Act, the agreement shall provide that if  
14 the real property is purchased, title to the real property  
15 shall be issued in the name of the state and held by the  
16 property control division.

17 B. Legislative ratification and approval of an  
18 agreement pursuant to Subsection A of this section shall not  
19 create a legal obligation for the state agency to continue the  
20 lease from year to year or to purchase the real property.

21 C. As used in this section, "state agency" means the  
22 state or any of its branches, agencies, departments, boards,  
23 instrumentalities or institutions, but "state agency" does not  
24 include state educational institutions or state-chartered  
25 charter schools."

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1           SECTION 45. Section 15-3A-1 NMSA 1978 (being Laws 1989,  
2 Chapter 363, Section 1) is amended to read:

3           "15-3A-1. GOVERNOR'S RESIDENCE ADVISORY COMMISSION--  
4 CREATED.--

5           A. ~~[There is created]~~ The "governor's residence  
6 advisory commission" ~~[which shall be]~~ is created and  
7 administratively attached to the ~~[general services]~~ department  
8 of finance and administration.

9           B. The commission shall consist of five members  
10 selected as follows:

11                   (1) the governor or ~~[his]~~ the governor's  
12 designee;

13                   (2) the secretary of ~~[general services]~~ finance  
14 and administration or ~~[his]~~ the secretary's designee; and

15                   (3) three members appointed by the governor from  
16 a list of names submitted by the governor's mansion foundation,  
17 a nonprofit, charitable corporation of this state. The  
18 ~~[chairman]~~ chair of the commission shall be elected annually  
19 from among the commission membership.

20           C. Appointed members shall serve for terms of four  
21 years each and vacancies in any appointed member's seat shall  
22 be filled for the remainder of the unexpired term in the same  
23 manner as the original appointment was made.

24           ~~[D. Appointed members shall receive no compensation~~  
25 ~~but shall be paid per diem and mileage as provided for~~

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1 ~~nonsalaried officers in the Per Diem and Mileage Act.]"~~

2 SECTION 46. Section 15-3A-2 NMSA 1978 (being Laws 1989,  
3 Chapter 363, Section 2) is amended to read:

4 "15-3A-2. DUTIES AND POWERS.--

5 A. The governor's residence advisory commission  
6 shall:

7 (1) plan, assemble, dispose of and acquire  
8 furnishings, art, landscaping materials and plants and other  
9 decorations for the public areas of the official residence of  
10 the governor;

11 (2) monitor and report on the status of  
12 maintenance of the governor's residence and recommend to the  
13 [~~general services~~] department of finance and administration and  
14 to the legislature actions necessary to repair, maintain and  
15 renovate the residence;

16 (3) conduct a detailed inventory at the  
17 beginning of each governor's term and annually prepare and  
18 submit to the legislature, the governor and the [~~general~~  
19 ~~services~~] department a written inventory of and a statement on  
20 the condition of these public furnishings, art decorations and  
21 other items of the residence, as well as a written statement on  
22 the condition of the residence as a whole; and

23 (4) develop statewide interest in the residence  
24 and effect such measures as will enhance the governor's ability  
25 to provide appropriate hospitality to the visitors of the

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1 residence.

2 B. The commission may:

3 (1) ~~[utilize]~~ use the assistance of  
4 ~~[individuals, the general services department]~~ other state  
5 agencies and nonprofit charitable corporations and other  
6 persons in carrying out its duties;

7 (2) accept on behalf of the state from any  
8 private or other public sources, money, gifts, donations and  
9 bequests for use by the commission in carrying out its duties;  
10 and

11 (3) enter into public promotions of its  
12 endeavors and publish such materials as it deems appropriate to  
13 promote the purposes of the commission."

14 SECTION 47. Section 15-3B-2 NMSA 1978 (being Laws 1972,  
15 Chapter 74, Section 2, as amended) is amended to read:

16 "15-3B-2. DEFINITIONS.--As used in the Property Control  
17 Act:

18 A. "capital outlay project" means the acquisition,  
19 improvement, alteration or reconstruction of assets of a long-  
20 term character that are intended to continue to be held or  
21 used, including land, buildings, machinery, furniture and  
22 equipment. A "capital outlay project" includes all proposed  
23 expenditures related to the entire undertaking;

24 B. "department" means the ~~[general services]~~  
25 department of finance and administration;

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1 C. "director" means the director of the division;

2 D. "division" means the property control division of  
3 the department;

4 E. "jurisdiction" means all state buildings and land  
5 except those under the control and management of the state  
6 armory board, the border authority, the cultural affairs  
7 department, the state fair commission, the department of game  
8 and fish, the department of transportation, the commissioner of  
9 public lands, the state parks division of the energy, minerals  
10 and natural resources department, the state institutions of  
11 higher learning, regional education cooperatives, the New  
12 Mexico school for the deaf, the New Mexico school for the blind  
13 and visually impaired, the judicial branch, the legislative  
14 branch, property acquired by the economic development  
15 department pursuant to the Statewide Economic Development  
16 Finance Act and property acquired by the public school  
17 facilities authority pursuant to the Public School Capital  
18 Outlay Act; and

19 F. "secretary" means the secretary of [~~general~~  
20 ~~services~~] finance and administration."

21 SECTION 48. Section 15-3B-7.1 NMSA 1978 (being Laws  
22 2001, Chapter 196, Section 1) is amended to read:

23 "15-3B-7.1. STATE BUILDINGS--USE IN MOTION PICTURES.--

24 The [~~property control~~] division [~~of the general services~~  
25 ~~department~~] shall provide for the free access to state

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1 buildings by the motion picture industry."

2 SECTION 49. Section 15-8-3 NMSA 1978 (being Laws 1994,  
3 Chapter 119, Section 3, as amended) is amended to read:

4 "15-8-3. DEFINITIONS.--As used in the Transportation  
5 Services Act:

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

7 B. "division" means the transportation services  
8 division of the [~~general services~~] department of  
9 transportation;

10 C. "secretary" means the secretary of [~~general~~  
11 ~~services~~] transportation;

12 D. "state agency" means a state department, agency,  
13 board or commission but does not include the legislative and  
14 judicial branches, public schools and institutions of higher  
15 education; and

16 E. "state vehicle" means an automobile, van, sport-  
17 utility truck, pickup truck or other vehicle with a declared  
18 gross vehicle weight of less than ten thousand pounds used by  
19 a state agency to transport passengers or property."

20 SECTION 50. Section 15-8-4 NMSA 1978 (being Laws 1994,  
21 Chapter 119, Section 4, as amended) is amended to read:

22 "15-8-4. DIVISION CREATED.--The "transportation  
23 services division" is created in the [~~general services~~]  
24 department of transportation. The director shall be  
25 appointed by the secretary with the consent of the governor.

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1 Staff of the division shall be covered by the provisions of  
2 the Personnel Act."

3 SECTION 51. Section 15-8-6 NMSA 1978 (being Laws 1994,  
4 Chapter 119, Section 6, as amended by Laws 2009, Chapter 8,  
5 Section 1 and by Laws 2009, Chapter 129, Section 1 and also  
6 by Laws 2009, Chapter 250, Section 6) is amended to read:

7 "15-8-6. STATE VEHICLES--USE--MARKINGS--STATE  
8 GOVERNMENT PLATES.--

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

16 B. The division may determine that it is  
17 impractical to retain custody of certain state vehicles, and  
18 it may provide that custody reside in another state agency in  
19 the following cases:

20 (1) the state vehicle is used for emergency or  
21 law enforcement purposes; or

22 (2) the state vehicle is a department of  
23 transportation, energy, minerals and natural resources  
24 department, department of game and fish or homeland security  
25 and emergency management department passenger vehicle, truck

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1 or tractor or heavy road equipment.

2 C. Except as provided in Subsections E and F of  
3 this section, all state vehicles shall be marked as state  
4 vehicles. Each side of the vehicle shall be marked, in  
5 letters not less than two inches in height, with the  
6 following designation of ownership: "State of New  
7 Mexico,..... Department" or "State of New Mexico Department  
8 of ....." and naming the department using the vehicle.

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

12 E. Only state vehicles used for legitimate  
13 undercover law enforcement purposes are exempt from the  
14 requirements of Subsections C and D of this section. All  
15 other state vehicles owned or in the custody of state  
16 agencies that have law enforcement functions shall be marked  
17 and have state government registration plates.

18 F. A state agency may seek custody of state  
19 vehicles as an exception to Subsection B of this section or  
20 an exemption to the provisions of Subsection C of this  
21 section by making a written request to the director,  
22 specifying the reasons for the proposed custody or exemption.  
23 The director may approve the custody or exemption, in  
24 writing, indicating the duration and any conditions of the  
25 custody or exemption.

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1           G. The division shall adopt rules permitting  
2 [~~individuals~~] persons enrolled in the state's adaptive  
3 driving program to use special-use state vehicles for  
4 evaluation and training purposes in that program."

5           SECTION 52. Section 15-9-2 NMSA 1978 (being Laws 1994,  
6 Chapter 135, Section 2) is amended to read:

7           "15-9-2. DEFINITIONS.--As used in the State Aircraft  
8 Act:

9           A. "department" means the [~~general services~~]  
10 department of transportation; and

11           B. "state aircraft" means all state airplanes used  
12 primarily to transport passengers."

13           SECTION 53. Section 15-9-3 NMSA 1978 (being Laws 1994,  
14 Chapter 135, Section 3) is amended to read:

15           "15-9-3. AIRCRAFT CONSOLIDATION--DEPARTMENT DUTIES.--

16           A. All state aircraft shall be consolidated in the  
17 department for the use of the state's agencies, departments,  
18 branches and institutions.

19           B. The department shall:

20                   (1) adopt and file in accordance with the  
21 State Rules Act rules [~~and regulations~~] to carry out the  
22 provisions of the State Aircraft Act;

23                   (2) own, operate and maintain the state's  
24 aircraft fleet;

25                   (3) provide centralized statewide scheduling

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1 of aircraft;

2 (4) designate destination airports;

3 (5) determine travel charges for state  
4 aircraft services;

5 (6) determine use requirements, including the  
6 number of required passengers per flight and under what  
7 conditions persons other than state officers and employees  
8 are allowed to travel in state aircraft; and

9 (7) determine other requirements it deems  
10 appropriate or fiscally responsible.

11 C. The department may refuse a request for state  
12 aircraft scheduling."

13 SECTION 54. Section 15-9-4.1 NMSA 1978 (being Laws  
14 1995, Chapter 49, Section 3) is amended to read:

15 "15-9-4.1. AVIATION SERVICES FUND.--~~[There is created~~  
16 ~~in the state treasury]~~ The "aviation services fund" is  
17 created in the state treasury. Money in the fund is  
18 appropriated to the ~~[general services]~~ department for the  
19 purpose of operating, maintaining and repairing state  
20 aircraft, including fuel, insurance, pilot compensation and  
21 other basic support costs. Disbursements from the fund shall  
22 be made only upon warrant drawn by the secretary of finance  
23 and administration pursuant to vouchers signed by the  
24 ~~[director of the motor pool division of the general services~~  
25 ~~department]~~ secretary of transportation or the secretary's

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1 authorized representative. Money in the fund shall not  
2 revert at the end of any fiscal year."

3 SECTION 55. Section 15-10-1 NMSA 1978 (being Laws 1997,  
4 Chapter 178, Section 5, as amended) is amended to read:

5 "15-10-1. CAPITOL BUILDINGS PLANNING COMMISSION  
6 CREATED.--

7 A. The "capitol buildings planning commission" is  
8 created. The commission shall be composed of four members of  
9 the legislature, two from each house, appointed by the New  
10 Mexico legislative council, the ~~[secretary of general~~  
11 ~~services or the secretary's designee]~~ the staff architect of  
12 the property control division of the department of finance  
13 and administration, the state treasurer or the state  
14 treasurer's designee, the secretary of transportation or the  
15 secretary's designee, the secretary of cultural affairs or  
16 the secretary's designee, the secretary of finance and  
17 administration or the secretary's designee, the commissioner  
18 of public lands or the commissioner's designee and the chair  
19 of the supreme court building commission or the chair's  
20 designee.

21 B. The commission shall:

22 (1) study and plan for the long-range  
23 facilities needs of state government in the greater  
24 metropolitan areas of Las Cruces, Santa Fe and Albuquerque  
25 and, after developing an initial master plan for the state

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1 facilities in those areas, conduct a review of state  
2 properties throughout the state for the development of an  
3 overall master plan;

4 (2) review proposed lease-purchase agreements  
5 pursuant to Section 15-10-2 NMSA 1978;

6 (3) work with the [~~general services~~  
7 ~~department~~] property control division and other state  
8 agencies in developing recommendations for addressing  
9 deferred maintenance on state facilities and disposal  
10 strategies for aging facilities no longer able to serve their  
11 mission; and

12 (4) [~~utilizing~~] using life cycle costing, work  
13 with the [~~general services department~~] property control  
14 division in developing recommendations regarding whether the  
15 state should lease, lease-purchase or purchase needed  
16 additional facilities.

17 C. The legislative council service shall provide  
18 staff for the commission in coordination with the [~~staff~~  
19 ~~architect and other~~] staff of the property control division  
20 [~~of the general services department~~].

21 D. The commission shall meet regularly and shall  
22 report annually to the legislature on an annual update of the  
23 master plan for the long-range facilities needs of state  
24 government in the greater metropolitan areas of Las Cruces,  
25 Santa Fe and Albuquerque and throughout the state."

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1           SECTION 56. Section 15-11-1 NMSA 1978 (being Laws 2001,  
2 Chapter 108, Section 1) is amended to read:

3           "15-11-1. BUILDING SERVICES [~~DIVISION~~] BUREAU--POWERS  
4 AND DUTIES.--

5           A. The building services bureau of the property  
6 control division of the [~~general services~~] department of of  
7 finance and administration shall:

8                   (1) maintain, clean and operate buildings and  
9 improvements and maintain and landscape the grounds and  
10 premises under the control of the property control division  
11 [~~of the general services department~~] that are located within  
12 the exterior boundaries of the city of Santa Fe, either with  
13 [~~building services division~~] bureau staff or by contract;

14                   (2) recommend annually to the secretary of  
15 [~~general services~~] finance and administration any major  
16 repairs, renovations and equipment replacement needed in  
17 buildings serviced by the [~~building services division~~]  
18 bureau; and

19                   (3) develop and implement energy and water  
20 conservation measures in buildings serviced by the [~~building~~  
21 ~~services division~~] bureau.

22           B. The [~~building services division of the general~~  
23 ~~services department~~] bureau may maintain, clean, operate and  
24 otherwise care for buildings owned by the New Mexico finance  
25 authority that are leased to the property control division

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1 ~~[of the general services department]~~ in accordance with the  
2 provisions of the lease.

3 C. The ~~[building services division of the general~~  
4 ~~services department]~~ bureau may enter into agreements with  
5 state agencies housed in buildings under the control of the  
6 property control division ~~[of the general services~~  
7 ~~department]~~ located outside the exterior boundaries of the  
8 city of Santa Fe to provide or administer contracts with  
9 private firms to provide maintenance, custodial or security  
10 services. The ~~[building services division]~~ bureau may charge  
11 reasonable fees to cover costs of providing the services, and  
12 money from the fees shall be appropriated by the legislature  
13 for ~~[division]~~ bureau operations."

14 SECTION 57. Section 19-12-12 NMSA 1978 (being Laws  
15 1959, Chapter 25, Section 14, as amended) is amended to read:

16 "19-12-12. CONTRACT FOR MAINTENANCE.--The commissioner  
17 of public lands ~~[is authorized to]~~ may contract with the  
18 building services ~~[division]~~ bureau of the ~~[general services]~~  
19 property control division of the department of finance and  
20 administration on a cost basis for the maintenance of the  
21 lands and buildings acquired under the provisions of the Land  
22 Office Building Act."

23 SECTION 58. TEMPORARY PROVISION--TRANSFERS OF PROPERTY,  
24 CONTRACTUAL OBLIGATIONS AND STATUTORY PROVISIONS--STATE  
25 PERSONNEL OFFICE TO DEPARTMENT OF FINANCE AND

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1 ADMINISTRATION.--

2 A. On the effective date of this act, all  
3 functions, appropriations, money, records, furniture,  
4 equipment and other property of the state personnel office  
5 are transferred to the department of finance and  
6 administration.

7 B. On the effective date of this act, contractual  
8 obligations of the state personnel office shall be binding on  
9 the department of finance and administration.

10 C. On the effective date of this act, statutory  
11 references to the state personnel office shall be deemed to  
12 be references to the state personnel division of the  
13 department of finance and administration.

14 SECTION 59. TEMPORARY PROVISION--TRANSFERS OF PROPERTY,  
15 CONTRACTUAL OBLIGATIONS AND STATUTORY PROVISIONS--GENERAL  
16 SERVICES DEPARTMENT TO DEPARTMENT OF FINANCE AND  
17 ADMINISTRATION.--

18 A. On the effective date of this act, all  
19 functions, appropriations, money, records, furniture,  
20 equipment and other property of the general services  
21 department not attributable to the risk management division,  
22 transportation services division or the state printing and  
23 graphics program are transferred to the department of finance  
24 and administration.

25 B. On the effective date of this act, contractual

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1 obligations of the general services department not  
2 attributable to the risk management division, transportation  
3 services division or the state printing and graphics program  
4 shall be binding on the department of finance and  
5 administration.

6 C. On the effective date of this act, and except as  
7 provided in Sections \_\_\_\_\_ through \_\_\_\_\_ of this act,  
8 statutory references to the general services department shall  
9 be deemed to be references to the department of finance and  
10 administration. Statutory references to the property control  
11 division of the general services department shall be deemed  
12 to be references to the property control division of the  
13 department of finance and administration. Statutory  
14 references to the building services division of the general  
15 services department shall be deemed to be references to the  
16 building services bureau of the property control division of  
17 the department of finance and administration. Statutory  
18 references to the purchasing division of the general services  
19 department shall be deemed to be references to the purchasing  
20 division of the department of finance and administration.

21 SECTION 60. TEMPORARY PROVISION--TRANSFERS OF PROPERTY,  
22 CONTRACTUAL OBLIGATIONS AND STATUTORY PROVISIONS--  
23 TRANSPORTATION SERVICES DIVISION OF GENERAL SERVICES  
24 DEPARTMENT TO DEPARTMENT OF TRANSPORTATION.--

25 A. On the effective date of this act, all

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1 functions, appropriations, money, records, motor vehicles,  
2 aircraft, records, furniture, equipment and other property of  
3 the transportation services division, including the surplus  
4 property bureau, of the general services department are  
5 transferred to the department of transportation.

6 B. On the effective date of this act, contractual  
7 obligations of the transportation services division,  
8 including the surplus property bureau, of the general  
9 services department of the general services department shall  
10 be binding on the department of transportation.

11 C. On the effective date of this act, statutory  
12 references to the transportation services division of the  
13 general services department shall be deemed to be references  
14 to the department of transportation.

15 SECTION 61. TEMPORARY PROVISION--TRANSFERS OF PROPERTY,  
16 CONTRACTUAL OBLIGATIONS AND STATUTORY PROVISIONS--STATE  
17 PRINTING AND GRAPHICS PROGRAM OF GENERAL SERVICES DEPARTMENT  
18 TO DEPARTMENT OF INFORMATION TECHNOLOGY.--

19 A. On the effective date of this act, all  
20 functions, appropriations, money, records, furniture,  
21 equipment and other property of the state printing and  
22 graphics program of the general services department are  
23 transferred to the department of information technology.

24 B. On the effective date of this act, contractual  
25 obligations of the state printing and graphics program of the

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1 general services department shall be binding on the  
2 department of information technology.

3 C. On the effective date of this act, statutory  
4 references to the state printing and graphics program of the  
5 general services department shall be deemed to be references  
6 to the department of information technology.

7 **SECTION 62. TEMPORARY PROVISION--CONTINGENT EXECUTIVE**  
8 **REORGANIZATION.--**If legislation to create an insurance-  
9 related agency that includes the risk management division of  
10 the former general services department fails to be enacted,  
11 the risk management division of the former general services  
12 department shall be transferred to the department of finance  
13 and administration and all functions, appropriations, money,  
14 records, furniture, equipment and other property of the risk  
15 management division of the general services department shall  
16 be transferred to the department of finance and  
17 administration.

18 **SECTION 63. REPEAL.--**

19 A. Sections 9-17-1 through 9-17-6 NMSA 1978 (being  
20 Laws 1983, Chapter 301, Sections 1 through 6, as amended) are  
21 repealed.

22 B. Section 10-9-11 NMSA 1978 (being Laws 1977,  
23 Chapter 247, Section 47, as amended) is repealed.

24 **SECTION 64. EFFECTIVE DATE.--**The effective date of the  
25 provisions of this act is \_\_\_\_\_.

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