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SENATE BILL 1

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
R.L. Stockard

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO STATE GOVERNMENT ORGANIZATION; CREATING THE NEW
MEXICO STATE POLICE AND THE NEW MEXICO LAW ENFORCEMENT
ACADEMY AS SEPARATE AGENCIES OF THE EXECUTIVE BRANCH;
CREATING THE NEW MEXICO STATE POLICE BOARD; PRESCRIBING
POWERS AND DUTIES; TRANSFERRING PROPERTY, CONTRACTS AND
STATUTORY REFERENCES; AMENDING, REPEALING AND ENACTING
SECTIONS OF THE NMSA 1978.

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

Section 1. Section 6-4-8 NMSA 1978 (being Laws 1993,
Chapter 65, Section 20) is amended to read:

"6-4-8. DWI PROGRAM FUND CREATED--APPROPRIATION.--

A. The "DWI program fund" is created in the state
treasury and shall be administered by the department of
finance and administration. Money in the fund is subject to
appropriation by the legislature to the agencies and for the

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1 purposes specified and in accordance with the limitations and
2 requirements in this section. Balances in the fund at the
3 end of any year shall not revert to the general fund.

4 B. Money in the DWI program fund may be
5 appropriated to any of the following agencies for the
6 following purposes:

7 (1) to the department of health to contract
8 for community DWI programs and services and for alcoholism
9 and alcohol abuse prevention, screening and treatment
10 programs and services pursuant to the Alcoholism and Alcohol
11 Abuse Prevention, Screening and Treatment Act;

12 (2) to the children, youth and families
13 department to provide public school health education and
14 counseling programs that emphasize alcohol abuse prevention;

15 (3) to the traffic safety bureau of the
16 state highway and transportation department for DWI
17 education, awareness and information programs;

18 (4) to the ~~[department of public safety]~~ New
19 Mexico state police to provide additional special
20 investigators for enforcement of the Liquor Control Act;

21 (5) to the alcohol and gaming division of
22 the regulation and licensing department for enforcement of
23 the provisions of the Liquor Control Act and administration
24 of the Alcohol Server Education ~~[Act if enacted into law by~~
25 ~~the first session of the forty-first legislature]~~ Article of
the Liquor Control Act;

(6) to the public defender department for
costs related to workload increases due to increases in DWI

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1 caseloads;

2 (7) to the district attorneys for costs
3 related to workload increases due to increases in DWI
4 caseloads;

5 (8) to the magistrate courts division of the
6 administrative office of the courts for magistrate court
7 costs related to workload increases due to increases in DWI
8 caseloads, including costs of probation services;

9 (9) to the Bernalillo county metropolitan
10 court for costs related to workload increases due to
11 increases in DWI caseloads;

12 (10) to the district courts for costs
13 related to workload increases due to increases in DWI
14 caseloads;

15 (11) to the taxation and revenue department
16 for DWI costs; and

17 (12) to the school of medicine at the
18 university of New Mexico for prevention, research and
19 intervention in the field of fetal alcohol syndrome.

20 C. Prior to the second session of the forty-first
21 legislature, agencies eligible for funds under this section
22 shall determine their needs for such purposes and develop
23 recommendations with supporting data to justify the need for
24 increased funding to expand existing programs and services or
25 to implement new programs and services. The agencies shall
develop these recommendations as part of the budget process
as specified in Sections 6-3-18 through 6-3-22 NMSA 1978."

Section 2. Section 6-24-11 NMSA 1978 (being Laws 1995,

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1 Chapter 155, Section 11) is amended to read:

2 "6-24-11. EMPLOYEES--CONFLICT OF INTEREST--
3 INVESTIGATIONS--BONDS.--

4 A. No employee of the authority shall participate
5 in any decision involving a lottery retailer with whom the
6 employee has a financial interest.

7 B. No employee of the authority who leaves the
8 employment of the authority may represent any lottery vendor
9 or lottery retailer before the authority for a period of two
10 years following termination of employment with the authority.

11 C. A background investigation shall be conducted
12 on each applicant who has reached the final selection process
13 prior to employment by the authority. The authority is
14 authorized to pay for the actual cost of such investigations
15 and may contract with the [~~department of public safety~~] New
16 Mexico state police for the performance of the
17 investigations.

18 D. The authority shall bond authority employees
19 with access to authority funds or lottery revenue in an
20 amount determined by the board and may bond other employees
21 as deemed necessary."

22 Section 3. Section 6-24-12 NMSA 1978 (being Laws 1995,
23 Chapter 155, Section 12, as amended) is amended to read:

24 "6-24-12. EXECUTIVE VICE PRESIDENT FOR SECURITY--
25 QUALIFICATIONS--DUTIES.--

A. The chief executive officer shall hire an
executive vice president for security, who shall be qualified
by training and experience, including at least five years of

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1 law enforcement experience, and be knowledgeable and
2 experienced in computer security. The executive vice
3 president for security shall take direction as needed from
4 the chief executive officer and shall be accountable to the
5 board.

6 B. The executive vice president for security
7 shall:

8 (1) be the chief administrative officer of
9 the security division of the authority, which is designated
10 as a law enforcement agency for the purposes of administering
11 the security provisions of the New Mexico Lottery Act;

12 (2) be responsible for ~~[assuring]~~ ensuring
13 the security, honesty, fairness and integrity of the
14 operation and administration of the lottery and to that end
15 shall institute all necessary security measures, including an
16 examination of the background of all prospective employees,
17 lottery retailers, lottery vendors and lottery contractors;

18 (3) in conjunction with the chief executive
19 officer, confer with the attorney general or his designee to
20 promote and ensure the security, honesty, fairness and
21 integrity of the operation and administration of the lottery;
22 and

23 (4) in conjunction with the chief executive
24 officer, report any alleged violation of law to the attorney
25 general or any other appropriate law enforcement authority
for further investigation and action.

C. The executive vice president for security and
the employees of the division assigned by him as security

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1 agents shall be commissioned by the board as peace officers
2 with full powers of arrest in the performance of their
3 duties. These peace officers shall seek and must obtain
4 certification pursuant to the provisions of the Law
5 Enforcement Training Act.

6 D. The ~~[department of public safety]~~ New Mexico
7 state police in conjunction with the authority shall develop
8 policy and procedures to require background checks. The
9 policy and procedures shall require the fingerprinting of all
10 board members and prospective employees. Fingerprint cards
11 will be submitted to the ~~[department of public safety records~~
12 ~~bureau]~~ New Mexico state police for processing through the
13 federal bureau of investigation. The ~~[department of public~~
14 ~~safety will]~~ New Mexico state police shall not disseminate
15 the criminal history information to the authority.

16 E. An applicant for consideration shall be
17 fingerprinted and shall provide two fingerprint cards to the
18 ~~[department of public safety]~~ New Mexico state police.
19 Convictions of felonies or misdemeanors contained in the
20 federal bureau of investigation record shall be used in
21 accordance with Section 6-24-18 NMSA 1978. Other information
22 contained in the federal bureau of investigation record
23 supported by independent evidence can form the basis for the
24 denial, suspension or revocation for good and just cause.
25 Such records and any related information shall be privileged
and shall not be disclosed to ~~[individuals]~~ persons not
directly involved in the decisions affecting the specific
applicants or employees. The authority shall pay for the

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1 cost of obtaining the federal bureau of investigation record.
2 The ~~[department of public safety]~~ New Mexico state police
3 shall implement the provisions of this section ~~[on or before~~
4 ~~July 1, 1999]~~."

5 Section 4. Section 7-15-2.1 NMSA 1978 (being Laws 1988,
6 Chapter 73, Section 23, as amended) is amended to read:

7 "7-15-2.1. DEFINITIONS.--As used in the Trip Tax Act:

8 A. "combination gross vehicle weight" means the
9 sum total of the gross vehicle weights of all units of a
10 combination;

11 B. "commercial motor carrier vehicle" means ~~[any]~~
12 a motor vehicle with a gross weight of twelve thousand pounds
13 or more used or reserved for use in the transportation of
14 persons, property or merchandise for hire, compensation or
15 profit or in the furtherance of a commercial enterprise or
16 any vehicle used or maintained primarily for the
17 transportation of property or merchandise or for drawing
18 other vehicles so used or maintained;

19 C. "department" or "state police" means the
20 ~~[department of public safety, the secretary of public safety]~~
21 New Mexico state police, the chief of the New Mexico state
22 police and any employee of ~~[that department]~~ the New Mexico
23 state police exercising authority lawfully delegated to that
24 employee by the ~~[secretary]~~ chief;

25 D. "gross vehicle weight" means the weight of a
vehicle without load, plus the weight of any load thereon;

E. "motor vehicle" means every vehicle ~~[which]~~
that is self-propelled and every vehicle ~~[which]~~ that is

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1 propelled by electric power obtained from batteries or from
2 overhead trolley wires, but not operated upon rails;

3 F. "registrant" means the person who has
4 registered the vehicle pursuant to the laws of this state or
5 another state;

6 G. "trip tax" means the use fee imposed under the
7 Trip Tax Act; and

8 H. "vehicle" means every device in, upon or by
9 which any person or property is or may be transported or
10 drawn upon a highway, including any frame, chassis or body of
11 any vehicle or motor vehicle, except devices moved by human
12 power or used exclusively upon stationary rails or tracks."

13 Section 5. Section 10-9-4 NMSA 1978 (being Laws 1961,
14 Chapter 240, Section 4, as amended) is amended to read:

15 "10-9-4. COVERAGE OF SERVICE.--The Personnel Act and
16 the service cover all state positions except:

17 A. officials elected by popular vote or appointed
18 to fill vacancies to elective offices;

19 B. members of boards and commissions and heads of
20 agencies appointed by the governor;

21 C. heads of agencies appointed by boards or
22 commissions;

23 D. directors of department divisions;

24 E. those in educational institutions and in public
25 schools;

F. those employed by state institutions and by
state agencies providing educational programs and who are
required to hold valid certificates as certified school

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1 instructors as defined in Section 22-1-2 NMSA 1978 issued by
2 the state board of education;

3 G. those in the governor's office;

4 H. those in the state militia or the commissioned
5 officers of the New Mexico state police [~~division of the~~
6 ~~department of public safety~~];

7 I. those in the judicial branch of government;

8 J. those in the legislative branch of government;

9 K. not more than two assistants and one secretary
10 in the office of each official listed in Subsections A, B and
11 C of this section, excluding members of boards and
12 commissions in Subsection B of this section;

13 L. those of a professional or scientific nature
14 [~~which~~] that are temporary in nature;

15 M. those filled by patients or inmates in
16 charitable, penal or correctional institutions;

17 N. state employees if the personnel board in its
18 discretion decides that the position is one of policymaking;
19 and

20 O. disadvantaged youth under twenty-two years of
21 age regularly enrolled or to be enrolled in a secondary
22 educational institution approved by the state board of
23 education or in an accredited state institution of advanced
24 learning or vocational training and who are to be employed
25 for not more than seven hundred twenty hours during any
calendar year:

(1) the term "disadvantaged youth" shall be
defined for purposes of this exemption by [~~regulation~~] rule

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1 duly promulgated by the board; and

2 (2) the board shall:

3 (a) require that all the criteria of
4 this subsection have been met;

5 (b) establish employment lists for the
6 certification of the highest-standing candidates to the
7 prospective employers; and

8 (c) establish the pay rates for such
9 employees."

10 Section 6. Section 10-9-5 NMSA 1978 (being Laws 1978,
11 Chapter 96, Section 1, as amended) is amended to read:

12 "10-9-5. PUBLIC OFFICERS AND PUBLIC EMPLOYEES--
13 EXECUTIVE BRANCH--ANNUAL EXEMPT SALARIES PLAN.--

14 A. The department of finance and administration
15 shall prepare, by December 1 of each year, an exempt salaries
16 plan for the governor's approval. The plan shall specify
17 salary ranges for the following public officer and public
18 employee positions of the executive branch of government:

19 (1) members of boards and commissions
20 appointed by the governor;

21 (2) heads of agencies or departments
22 appointed by the governor;

23 (3) heads of agencies or departments
24 appointed by the respective boards and commissions of the
25 agencies;

(4) directors of department divisions;

(5) employees in the governor's office;

(6) positions in the state militia and the

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1 commissioned officers of the New Mexico state police

2 ~~[division of the department of public safety];~~

3 (7) assistants and secretaries in the
4 offices of each official covered by Paragraphs (2) and (3)
5 ~~[and (10)]~~ of this subsection;

6 (8) positions of a professional or
7 scientific nature ~~[which]~~ that are temporary in nature; and

8 (9) state employees whose positions the
9 personnel board has classified as policymaking positions and
10 exempt employees of elective public officials ~~and~~

11 ~~(10) secretaries of departments appointed by~~
12 ~~the governor].~~

13 B. Excluded from the provisions of this section
14 are employees of the commission on higher education and
15 employees of state educational institutions named in Article
16 12, Section 11 of the constitution of New Mexico.

17 C. The exempt salaries plan for the ensuing fiscal
18 year, as prepared by the department of finance and
19 administration and approved by the governor, shall be
20 published as a part of the executive budget document
21 presented to the legislature at its next regular session
22 following the preparation of the plan.

23 D. Upon the governor's approval, the plan shall
24 take effect at the beginning of the subsequent fiscal year."

25 Section 7. Section 12-10-2 NMSA 1978 (being Laws 1959,
Chapter 190, Section 2, as amended) is amended to read:

"12-10-2. PURPOSE.--The purpose of the State Civil
Emergency Preparedness Act is:

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1 A. to create the emergency planning and
2 coordination bureau of the [~~department of public safety~~] New
3 Mexico state police and to authorize the creation of local
4 offices of civil emergency preparedness in the political
5 subdivisions of the state;

6 B. to confer upon the governor and upon the
7 governing bodies of the state civil emergency preparedness
8 powers;

9 C. to provide a civil emergency preparedness plan
10 for the protection of life and property adequate to cope with
11 disasters resulting from acts of war or sabotage or from
12 natural or man-made causes other than acts of war;

13 D. to provide for coordination of all civil
14 emergency preparedness functions of this state with the
15 comparable functions of the federal government, other states
16 and localities and of private agencies;

17 E. to initiate programs to render aid in the
18 emergency restoration of facilities, utilities and other
19 installations essential to the safety and general welfare of
20 the public; and

21 F. to provide for assistance and care for persons
22 displaced, left homeless or otherwise victims of disaster or
23 war conditions."

24 Section 8. Section 12-10-3 NMSA 1978 (being Laws 1969,
25 Chapter 33, Section 1, as amended) is amended to read:

"12-10-3. EMERGENCY PLANNING AND COORDINATION BUREAU.--

A. There is created the "emergency planning and
coordination bureau" of the [~~department of public safety~~] New

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1 Mexico state police.

2 B. The director of the technical and emergency
3 support division of the [~~department of public safety~~] New
4 Mexico state police shall be responsible to the [~~secretary~~]
5 chief of the New Mexico state police for carrying out the
6 program for civil emergency preparedness authorized by law
7 and shall serve as the governor's authorized representative
8 at the discretion of the governor. The emergency planning
9 and coordination bureau [~~chief~~] shall direct and coordinate
10 the civil emergency preparedness activities of all state
11 departments, agencies and political subdivisions and shall
12 maintain liaison with and cooperate with civil emergency
13 preparedness agencies and organizations of other states and
14 of the federal government."

15 Section 9. Section 12-10-9 NMSA 1978 (being Laws 1959,
16 Chapter 190, Section 9, as amended) is amended to read:

17 "12-10-9. EXISTING SERVICES AND FACILITIES TO BE
18 [~~UTILIZED~~] USED BY AGENCY.--The governor, the director of the
19 technical and emergency support division of the [~~department~~
20 ~~of public safety~~] New Mexico state police and the governing
21 bodies of the political subdivisions of the state are
22 directed to [~~utilize~~] use, in carrying out the provisions of
23 the State Civil Emergency Preparedness Act, the services,
24 equipment, supplies and facilities of existing departments,
25 offices and agencies of the state and of the political
subdivisions [~~thereof~~] of the state to the maximum extent
practicable, and the officers and personnel of all
departments, offices and agencies thereof are directed to

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1 cooperate with and extend their services and facilities to
2 the governor or to the director or to the local [~~coordinators~~]
3 coordinators of civil emergency preparedness throughout the
4 state upon request."

5 Section 10. Section 24-2C-4 NMSA 1978 (being Laws 1997,
6 Chapter 256, Section 4) is amended to read:

7 "24-2C-4. PROGRAM CREATED--DEPARTMENT
8 RESPONSIBILITIES.--

9 A. The department shall:

10 (1) establish and administer a [~~harm~~
11 ~~reduction~~] program for the purpose of sterile hypodermic
12 syringe and needle exchange;

13 (2) compile data to assist in planning and
14 evaluating efforts to combat the spread of blood-borne
15 diseases; and

16 (3) make an annual report, including
17 legislative recommendations, to the legislative health and
18 human services committee by October 1 each year.

19 B. Within thirty days of [~~the effective date of~~
20 ~~the Harm Reduction Act~~] June 20, 1997, the department shall
21 appoint an advisory committee to include representation from:

22 (1) the office of the attorney general;

23 (2) the New Mexico state police [~~division of~~
24 ~~the department of public safety~~];

25 (3) the human immunodeficiency virus
sexually transmitted disease bureau of the department;

(4) the director of the epidemiology
division of the department or his designee;

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1 (5) a medical officer of the public health
2 division of the department; and

3 (6) other persons or representatives as
4 chosen by the secretary of health to ensure a thorough and
5 unbiased evaluation of the program established under the Harm
6 Reduction Act.

7 C. The advisory committee shall:

8 (1) develop policies and procedures for
9 evaluation of the [~~harm reduction~~] program;

10 (2) develop criteria for data collection and
11 program evaluation; and

12 (3) meet as necessary to analyze data and
13 monitor and produce a report on the [~~harm reduction~~] program.

14 D. The department may contract with private
15 providers to operate the program."

16 Section 11. Section 24-15A-3 NMSA 1978 (being Laws
17 1978, Chapter 107, Section 3, as amended) is amended to read:

18 "24-15A-3. DEFINITIONS.--As used in the Search and
19 Rescue Act:

20 A. "search and rescue" or "SAR" means the
21 employment, coordination and [~~utilization~~] use of available
22 resources and personnel in locating, relieving the distress
23 and preserving the lives of and removing survivors from the
24 site of a disaster, emergency or hazard to a place of safety
25 in the case of lost, stranded, entrapped or injured persons;

B. "board" means the state search and rescue
review board;

C. "AFRCC" means the air force rescue coordination

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1 center, which is the federal agency responsible for
2 coordinating federal SAR activities within the inland region
3 pursuant to the national search and rescue plan;

4 D. "state SAR control agency" means the
5 ~~[department of public safety]~~ New Mexico state police;

6 E. "state SAR mission initiator" means the New
7 Mexico state police officer so appointed and SAR trained;

8 F. "state SAR resource officer" means the official
9 located within the ~~[department of public safety]~~ New Mexico
10 state police responsible for coordinating SAR resources and
11 administering the state SAR plan;

12 G. "field coordinator" means a person certified by
13 the board with special training and expertise responsible for
14 the efficient organization and conduction of a SAR mission;

15 H. "civil air patrol" means the civil air patrol
16 division of the department of military affairs and an air
17 force auxiliary responsible for coordinating air searches
18 ~~[which]~~ that are authorized by the AFRCC;

19 I. "mission" means each separate group effort in
20 the employment, direction and guidance of personnel and
21 facilities in searching for and rendering aid to persons lost
22 or in distress;

23 J. "chief" means the chief of the New Mexico state
24 police ~~[division of the department of public safety]~~; and

25 K. "director" means the director of the technical
and emergency support division of the ~~[department of public~~
safety] New Mexico state police."

Section 12. Section 24-15A-4 NMSA 1978 (being Laws

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1 1978, Chapter 107, Section 4, as amended) is amended to read:

2 "24-15A-4. STATE SEARCH AND RESCUE RESOURCE OFFICER--
3 POSITION CREATED.--

4 A. The position of "state search and rescue
5 resource officer" is created within the [~~department of public~~
6 ~~safety~~] New Mexico state police.

7 B. The state search and rescue resource officer
8 shall be a noncommissioned employee.

9 C. The state search and rescue resource officer
10 shall be the chief administrator of the state search and
11 rescue plan."

12 Section 13. Section 24-15A-6 NMSA 1978 (being Laws
13 1978, Chapter 107, Section 6, as amended) is amended to read:

14 "24-15A-6. STATE SEARCH AND RESCUE REVIEW BOARD
15 CREATED--MEMBERSHIP--DUTIES AND RESPONSIBILITIES--TERMS.--

16 A. There is created a policy advisory committee,
17 to be known as the "state search and rescue review board",
18 whose duty it is to evaluate the operation of the New Mexico
19 search and rescue plan; evaluate problems of specific
20 missions; and make findings of fact and recommendations to
21 the chief, director and other appropriate authorities. The
22 board shall consist of the state search and rescue resource
23 officer, who shall be a nonvoting member, and seven members
24 appointed by the governor as follows:

25 (1) the [~~secretary of public safety~~] chief
or his designee;

(2) the secretary of health or his designee;

(3) a representative of the civil air patrol

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1 division of the department of military affairs;

2 (4) a representative of the New Mexico
3 emergency services council;

4 (5) a member certified as a search and
5 rescue person;

6 (6) a member of the New Mexico sheriff's
7 association; and

8 ~~[(7) the chief of the New Mexico state
9 police division of the department of public safety or his
10 designee; and~~

11 ~~(8)]~~ (7) a member of the general public who
12 shall act as chairman of the board and who shall vote only in
13 case of a tie.

14 B. The board shall have the duty and
15 responsibility to:

16 (1) meet at least quarterly or more
17 frequently at the call of the chairman;

18 (2) evaluate the operation and effectiveness
19 of the state SAR plan and make recommendations to the
20 director;

21 (3) evaluate the operational effectiveness
22 of specific missions and make findings of fact and
23 recommendations to the chief and other appropriate
24 authorities for the elimination of problems and the
25 improvement of overall conduct of the mission;

(4) hold hearings and invite ~~[individuals]~~
persons to appear and testify before the board and reimburse
such witnesses for travel expenses incurred;

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1 (5) prepare a report for the attorney
2 general's office in cases of victim hospitalization or death;
3 and

4 (6) with the approval of the chief, certify
5 field coordinators and confirm certification of SAR persons.

6 C. The governor shall appoint the seven appointed
7 members for staggered terms of three years each made in such
8 a manner that the terms of not more than three members expire
9 on January 1 of 1979, 1980 and 1981. Thereafter,
10 appointments shall be made so that the terms of not more than
11 three members expire on January 1 of each year. Vacancies
12 shall be filled by appointment by the governor for the
13 unexpired term. Any appointed member of the board who misses
14 more than two consecutive meetings shall automatically be
15 removed as a member of the board."

16 Section 14. Section 29-1-11 NMSA 1978 (being Laws 1972,
17 Chapter 8, Section 1, as amended) is amended to read:

18 "29-1-11. AUTHORIZATION OF TRIBAL AND PUEBLO POLICE
19 OFFICERS AND CERTAIN FEDERAL OFFICERS TO ACT AS NEW MEXICO
20 PEACE OFFICERS--AUTHORITY, PAYMENT AND PROCEDURE FOR
21 COMMISSIONED PEACE OFFICERS.--

22 A. All persons who are duly commissioned officers
23 of the police or sheriff's department of any New Mexico
24 Indian tribe or pueblo or who are law enforcement officers
25 employed by the bureau of Indian affairs and are assigned in
New Mexico are, when commissioned under Subsection B of this
section, recognized and authorized to act as New Mexico peace
officers. These officers have all the powers of New Mexico

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1 peace officers to enforce state laws in New Mexico, including
2 the power to make arrests for violation of state laws.

3 B. The chief of the New Mexico state police is
4 granted authority to issue commissions as New Mexico peace
5 officers to members of the police or sheriff's department of
6 any New Mexico Indian tribe or pueblo or a law enforcement
7 officer employed by the bureau of Indian affairs to implement
8 the provisions of this section. The procedures to be
9 followed in the issuance and revocation of commissions and
10 the respective rights and responsibilities of the departments
11 shall be set forth in a written agreement to be executed
12 between the chief of the New Mexico state police and the
13 tribe or pueblo or the appropriate federal official.

14 C. The agreement referred to in Subsection B of
15 this section shall contain the following conditions:

16 (1) the tribe or pueblo, but not the bureau
17 of Indian affairs, shall submit proof of adequate public
18 liability and property damage insurance for vehicles operated
19 by the peace officers and police professional liability
20 insurance from a company licensed to sell insurance in the
21 state;

22 (2) each applicant for a commission shall
23 successfully complete four hundred hours of basic police
24 training that is approved by the director of the New Mexico
25 law enforcement academy;

(3) the chief of the New Mexico state police
shall have the authority to suspend any commission granted
pursuant to Subsection B of this section for reasons solely

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1 within his discretion;

2 (4) if any provision of the agreement is
3 violated by the tribe or pueblo or any of its agents, the
4 chief of the New Mexico state police shall suspend the
5 agreement on five days' notice, which suspension shall last
6 until the chief is satisfied that the violation has been
7 corrected and will not recur;

8 (5) the goldenrod-colored officer's second
9 copy of any citation issued pursuant to a commission
10 authorized by this section shall be submitted within five
11 days to the chief of the New Mexico state police;

12 (6) any citation issued pursuant to a
13 commission authorized by this section shall be to a
14 magistrate court of New Mexico; except that any citations
15 issued to Indians within the exterior boundaries of an Indian
16 reservation shall be cited into tribal court;

17 (7) the agreement or any commission issued
18 pursuant to it shall not confer any authority on a tribal
19 court or other tribal authority which that court or authority
20 would not otherwise have;

21 (8) the authority conferred by any agreement
22 entered into pursuant to the provisions of this section shall
23 be coextensive with the exterior boundaries of the
24 reservation; except that an officer commissioned under this
25 section may proceed in hot pursuit of an offender beyond the
exterior boundaries of the reservation, and the authority
conferred in any written agreement between the chief of the
New Mexico state police and the Navajo tribe may extend

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1 beyond the exterior boundaries of the Navajo reservation to
2 and including the area enclosed by the following description:

3 Beginning at a point where the southern boundary line of
4 the Navajo Indian reservation intersects the western
5 right-of-way line of US 666, and running thence; southerly
6 along the western right-of-way line of US 666 to the
7 northerly city limits of Gallup; thence, easterly along the
8 northerly city limits of Gallup to the northern side of the
9 right-of-way of I-40; thence, in an easterly direction along
10 the northerly side of the right-of-way of I-40 to the
11 northerly limits of the village of Prewitt; thence, in a
12 straight line between the northerly boundary of the village
13 of Prewitt to the southerly boundary of Ambrosia Lake; thence
14 in a straight line between the southerly boundary of Ambrosia
15 Lake to the southerly boundary of Hospah; thence, east along
16 a straight line from the southerly boundary of Hospah to the
17 southern boundary of Torreon; thence along the easterly side
18 of the right-of-way of state road 197 to the westerly city
19 limits of Cuba; thence, north along the westerly side of the
20 right-of-way of state road 44 to the southerly boundary of
21 the Jicarilla Apache Indian reservation; thence, westerly
22 along the southerly boundary of the Jicarilla Apache Indian
23 reservation to the southwest corner of that reservation;
24 thence, northerly along the westerly boundary of the
25 Jicarilla Apache Indian reservation to a point where the
westerly boundary of the reservation intersects the southerly
side of the right-of-way of state road 44; thence, northerly
along the southerly side of the right-of-way of state road 44

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1 to its intersection with the northerly side of the
2 right-of-way of Navajo road 3003; thence, along the northerly
3 side of the right-of-way of Navajo road 3003 to a point where
4 the northerly side of the right-of-way of Navajo road 3003
5 intersects the westerly side of the right-of-way line of
6 state road 371; thence, northerly along the west side of the
7 right-of-way of state road 371 to the southerly side of the
8 right-of-way of Navajo road 36; thence, westerly along the
9 southerly side of the right-of-way of Navajo road 36 to the
10 eastern border of the Navajo Indian reservation; thence,
11 along the eastern and southerly borders of the Navajo Indian
12 reservation to the point of beginning.

13 The municipalities of Cuba and Gallup and the villages
14 of Thoreau and Prewitt are excluded from the grant of
15 authority that may be conferred in any written agreement
16 entered into pursuant to provisions of this section;
17 provided, however, any written agreement may include under
18 such grant of authority the communities of Ambrosia Lake,
19 Hospah, Torreon, Lybrook, Nageezi, Counselors and Blanco
20 Trading Post and those communities commonly known as the
21 Wingate community; the Navajo Tribe blue water ranch area of
22 the Thoreau community; the Prewitt community, exclusive of
23 the village of Prewitt; the Haystack community; the Desidero
24 community; the Sand Springs community; the Rincon Marquis
25 community; the Charley Jesus Arviso and the Castillo
community; and state road 264 beginning at the point where it
intersects US 666 and ending where state road 264 intersects
the Arizona-New Mexico state line;

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1 (9) the chief of the New Mexico state police
2 or his designee and the tribe or pueblo or the appropriate
3 federal official shall be required to meet at least quarterly
4 or more frequently at the call of the chief of the New Mexico
5 state police to discuss the status of the agreement and
6 invite other law enforcement or other officials to attend as
7 necessary; and

8 (10) as consideration for law enforcement
9 services rendered for the state by tribal or pueblo police
10 officers who are commissioned peace officers pursuant to this
11 section, each tribe or pueblo shall receive from the law
12 enforcement protection fund three hundred dollars (\$300) for
13 each commissioned peace officer in the tribe or pueblo. To
14 be counted as a commissioned peace officer for the purposes
15 of this paragraph, a commissioned peace officer shall have
16 been assigned to duty and have worked in New Mexico for no
17 fewer than two hundred days in the calendar year immediately
18 prior to the date of payment. Payments shall be made for
19 only those divisions of the tribal or pueblo police
20 departments that perform services in New Mexico. No Indian
21 nation, tribe or pueblo police department shall be eligible
22 for any disbursement under the fund if officers of that
23 department cite non-Indians into the court of that Indian
24 nation, tribe or pueblo. This eligibility requirement would
25 apply to either civil or criminal citations issued by an
Indian nation, tribe or pueblo police department.

D. Nothing in this section impairs or affects the
existing status and sovereignty of tribes and pueblos of

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1 Indians as established under the laws of the United States.

2 E. All persons who are duly commissioned federal
3 law enforcement officers employed by the federal bureau of
4 investigation; drug enforcement administration; bureau of
5 alcohol, tobacco and firearms; United States secret service;
6 United States customs service; immigration and naturalization
7 service; United States marshals service; postal inspection
8 service; United States probation department; United States
9 pretrial services agency; and other appropriate federal
10 officers whose primary duty is law enforcement related, who
11 are assigned in New Mexico and who are required to be
12 designated by the county sheriff on a case-by-case basis in
13 the county in which they are working, are recognized and
14 authorized to act as New Mexico peace officers and have all
15 the powers of New Mexico peace officers to enforce state laws
16 in New Mexico, including the power to make arrests for
17 violation of state laws. The ~~[department of public safety]~~
18 New Mexico state police shall maintain a registry that lists
19 the name and affiliated federal agency of every federal law
20 enforcement officer recognized and authorized to act as a New
21 Mexico peace officer pursuant to the provisions of this
22 subsection. This subsection shall not be construed to impose
23 liability upon or to require indemnification by the state for
24 any act performed by a federal law enforcement officer
25 pursuant to this subsection.

F. The provisions of Subsection E of this section regarding designation of federal law enforcement officers by a county sheriff do not apply to federal law enforcement

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1 officers who are duly commissioned officers of a police or
2 sheriff's department for an Indian tribe or pueblo in New
3 Mexico or who are federal law enforcement officers employed
4 by the bureau of Indian affairs."

5 Section 15. Section 29-2-1 NMSA 1978 (being Laws 1941,
6 Chapter 147, Section 1, as amended) is amended to read:

7 "29-2-1. NEW MEXICO STATE POLICE CREATED.--~~[There is~~
8 ~~created in the department of public safety]~~ The "New Mexico
9 state police [~~division~~]" is created."

10 Section 16. Section 29-2-1.1 NMSA 1978 (being Laws
11 1987, Chapter 254, Section 18, as amended) is repealed and a
12 new Section 29-2-1.1 NMSA 1978 is enacted to read:

13 "29-2-1.1. [NEW MATERIAL] DEFINITIONS.--As used in
14 Chapter 29 NMSA 1978:

15 A. "academy" means the New Mexico law enforcement
16 academy;

17 B. "academy board" means the New Mexico law
18 enforcement academy board;

19 C. "chief" means the chief of the New Mexico
20 state police; and

21 D. "member of the New Mexico state police" means a
22 commissioned officer of the New Mexico state police."

23 Section 17. A new Section 29-2-1.2 NMSA 1978 is enacted
24 to read:

25 "29-2-1.2. [NEW MATERIAL] STATE POLICE BOARD--CREATED--
COMPOSITION--POWERS AND DUTIES.--

A. The "New Mexico state police board" is created.
The board shall manage and direct the New Mexico state

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1 police, except that the governor is empowered to call the New
2 Mexico state police to preserve the public peace, execute the
3 laws, suppress insurrection and repel invasion.

4 B. The board shall consist of seven members
5 appointed by the governor with the consent of the senate for
6 staggered terms of three years ending January 1; provided
7 that in making the initial appointments, three members shall
8 be appointed for terms of three years each, two members shall
9 be appointed for terms of two years each and two members
10 shall be appointed for terms of one year each. Thereafter,
11 all appointments shall be made for terms of three years. A
12 vacancy on the board shall be filled by appointment for the
13 unexpired term. At the time of their appointment, no more
14 than four members shall be from the same political party.
15 The governor shall make the appointments in such a manner as
16 to provide for geographic representation.

17 C. The board shall annually elect one of its
18 members as chairman and shall elect such other officers as
19 the board deems necessary. The board shall meet at regular
20 intervals fixed by it or on the call of the chairman or any
21 three members of the board. A majority of the members of the
22 board constitutes a quorum.

23 D. Members of the board may receive per diem and
24 mileage pursuant to the Per Diem and Mileage Act, but shall
25 receive no other compensation, perquisite or allowance."

Section 18. Section 29-2-3 NMSA 1978 (being Laws 1941,
Chapter 147, Section 3, as amended) is amended to read:

"29-2-3. NEW MEXICO STATE POLICE--ORGANIZATION.--

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1 A. The New Mexico state police shall consist of a
2 chief, such patrolmen, sergeants, lieutenants, [~~and~~] captains
3 and such civilian staff as the New Mexico state police board
4 may deem advisable within the limits of the funds
5 appropriated for the New Mexico state police [~~provided,~~
6 ~~however, that~~]. The number of captains, lieutenants and
7 sergeants shall not exceed twenty-five percent of the total
8 number of the police, exclusive of the chief, but this
9 requirement shall not be interpreted so as to require the
10 demotion of any member of the previous state police division
11 of the [~~criminal justice~~] department of public safety.

12 B. The New Mexico state police shall be organized
13 into such divisions, bureaus and other structures as the
14 chief and the board deem necessary, including:

- 15 (1) the special investigations division;
16 (2) the technical and emergency support
17 division;
18 (3) the motor transportation division; and
19 (4) the administrative services division."

20 Section 19. Section 29-2-6 NMSA 1978 (being Laws 1941,
21 Chapter 147, Section 6, as amended) is amended to read:

22 "29-2-6. QUALIFICATIONS OF MEMBERS.--

23 A. Members of the New Mexico state police, except
24 the chief, shall:

- 25 (1) at the time of their appointment, be
citizens of the United States;
 (2) at the time of their appointment, have
reached twenty-one years of age;

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1 (3) at the time of their appointment, have
2 completed not less than sixty hours of college credit;

3 (4) be of good moral character and not have
4 been convicted of a felony or infamous crime in the courts of
5 this state or other state or any country or in the federal
6 courts; and

7 (5) pass a physical examination the New
8 Mexico state police may require.

9 B. A person shall not be commissioned a member of
10 the New Mexico state police who is related by blood or
11 marriage within the fourth degree to a member of the [~~public~~
12 ~~safety advisory commission~~] New Mexico state police board."

13 Section 20. Section 29-2-7 NMSA 1978 (being Laws 1941,
14 Chapter 147, Section 7, as amended) is amended to read:

15 "29-2-7. COMMISSIONED OFFICERS--APPLICATION--
16 PROCEDURE.--The New Mexico state police shall cause all
17 applicants for the position of commissioned officer to submit
18 a written detailed application on [~~such~~] forms as the New
19 Mexico state police board shall prescribe, and the board
20 shall cause an investigation to be made of all applicants,
21 subsequent to their taking the examination [~~hereinafter~~]
22 referred to in Section 29-2-8 NMSA 1978, for the purpose of
23 determining the moral character, general reputation and
24 fitness of [~~any~~] an applicant [~~and Any such~~]. An applicant
25 who is found unfit as a result of [~~such~~] the investigation
shall be disqualified for employment. The board shall by
rule prescribe the physical qualifications of applicants and
shall require each applicant to submit to a physical

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1 examination by such doctors as the board shall designate [~~and~~
2 ~~Any~~]. An applicant who does not meet the physical
3 requirements prescribed by the board shall be disqualified
4 for employment. Inasmuch as laws have been enacted providing
5 for retirement, disability and life insurance funds for
6 members of the New Mexico state police, it is the intention
7 of the legislature that no applicants will be appointed who
8 are in such physical condition that the cost of such
9 protection will thereby be increased."

10 Section 21. Section 29-2-8 NMSA 1978 (being Laws 1941,
11 Chapter 147, Section 8, as amended) is amended to read:

12 "29-2-8. NEW MEXICO STATE POLICE--COMMISSIONED
13 OFFICERS--EXAMINATION.--The New Mexico state police shall
14 conduct a written examination of all applicants for the
15 position of commissioned officer for the purpose of
16 determining their mental qualifications and knowledge of the
17 laws of New Mexico and their ability to render assistance in
18 case of accidents upon the public highways [~~and~~]. No
19 applicant shall be appointed a member of the New Mexico state
20 police, other than the chief, until he [~~shall have~~] has
21 passed [~~such~~] the written examination with a grade of not
22 less than seventy-two percent."

23 Section 22. Section 29-2-9 NMSA 1978 (being Laws 1941,
24 Chapter 147, Section 9, as amended) is amended to read:

25 "29-2-9. PROBATIONARY PERIOD--LENGTH--PERMANENT
COMMISSION--SALARY.--

A. All new appointments as members of the New
Mexico state police shall be for a probationary period of two

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1 years. During [~~such~~] the probationary period, [~~such~~] the new
2 members may be removed or suspended at the discretion of the
3 chief [~~of the New Mexico state police~~]. At the end of two
4 years of satisfactory service and upon recommendation of the
5 chief and with concurrence of the New Mexico state police
6 board, the appointee may receive a permanent commission as a
7 member of the New Mexico state police. However, the
8 probationary period may be extended beyond a two-year period
9 upon the recommendation of the chief with the concurrence of
10 the board.

11 B. The salaries of all members of the New Mexico
12 state police, probationary and permanent, and that of the
13 chief shall be fixed by the board."

14 Section 23. Section 29-2-11 NMSA 1978 (being Laws 1941,
15 Chapter 147, Section 11, as amended) is amended to read:

16 "29-2-11. DISCIPLINARY PROCEEDINGS--APPEAL.--

17 A. No officer of the New Mexico state police
18 holding a permanent commission shall be removed from office,
19 demoted or suspended except for incompetence, neglect of
20 duty, violation of a published rule of conduct, malfeasance
21 in office or conduct unbecoming an officer, except as
22 provided in this section.

23 B. The [~~secretary~~] chief may suspend an officer
24 for disciplinary reasons for not more than thirty days in
25 accordance with New Mexico state police rules. Any officer
holding a permanent commission who is suspended by the
[~~secretary~~] chief has the right to have the suspension
reviewed by the [~~commission~~] New Mexico state police board,

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1 but without further review or appeal.

2 C. In the event the officer is to be removed from
3 office, demoted or suspended for a period of more than thirty
4 days, specific written charges shall be filed with the
5 ~~[commission]~~ board. Timely and adequate notice of the
6 charges to the person charged shall be provided and a prompt
7 hearing on the charges shall be held by the ~~[commission]~~
8 board. The person charged has the right to be represented by
9 counsel of his own choice and at his own expense at the
10 hearings. A complete record of the hearing shall be made
11 and, upon request, a copy of it shall be furnished to the
12 person charged. The person may require that the hearing be
13 public.

14 D. In the event the ~~[commission]~~ board finds that
15 the person charged shall be removed, demoted or suspended for
16 a period in excess of thirty days, the person may appeal from
17 the decision of the ~~[commission]~~ board to the district court
18 pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

19 Section 24. Section 29-2-13 NMSA 1978 (being Laws 1941,
20 Chapter 147, Section 13, as amended) is amended to read:

21 "29-2-13. UNIFORMS AND BADGES--UNIFORM ALLOWANCE TO BE
22 SET BY ~~[SECRETARY]~~ CHIEF--A suitable and distinctive uniform
23 shall be prescribed by the ~~[secretary]~~ chief. The
24 ~~[secretary]~~ chief shall provide and issue to each
25 commissioned officer a uniform and an appropriate badge
~~[which]~~ that shall contain in plain legible letters the words
"New Mexico state police". The prescribed uniform and badge
shall be worn at all times when on duty, except when, by

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1 direction of the chief or the governor, any member of the New
2 Mexico state police is assigned to special duties. Uniform
3 allowance and subsistence pay shall be established by the
4 [~~secretary~~] chief and allowed in addition to a commissioned
5 officer's salary and paid on a monthly basis to each
6 commissioned officer of the [~~division~~] New Mexico state
7 police. The uniform allowance and subsistence pay shall be
8 expended only for the purposes allowed, and any portion of
9 the uniform allowance or subsistence pay not so spent in each
10 fiscal year shall revert to the general fund."

11 Section 25. Section 29-2-14 NMSA 1978 (being Laws 1971,
12 Chapter 87, Section 1, as amended) is amended to read:

13 "29-2-14. UNAUTHORIZED WEARING OF UNIFORM OR BADGE--
14 UNAUTHORIZED MARKING OF MOTOR VEHICLE--PENALTY.--

15 A. Unauthorized wearing of uniform or badge
16 consists of the wearing or requiring the wearing, without
17 authorization by the [~~New Mexico state police board~~] chief,
18 of a uniform or badge or both whose material, color or
19 design, or any combination of them, is such that the wearer
20 appears to be a member of the New Mexico state police.

21 B. Unauthorized marking of motor vehicle consists
22 of the marking, using, possessing or owning or requiring the
23 marking or using, without authorization by the [~~board~~] chief,
24 of a motor vehicle whose insignia, color or equipment, or any
25 combination of them, is such that the motor vehicle appears
to be a New Mexico state police motor vehicle.

C. Whoever commits unauthorized wearing of uniform
or badge or unauthorized marking of motor vehicle is guilty

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1 of a petty misdemeanor."

2 Section 26. Section 29-2-16 NMSA 1978 (being Laws 1941,
3 Chapter 147, Section 15, as amended) is amended to read:

4 "29-2-16. STATE POLICE SCHOOL--COMPENSATION.--

5 A. Before entering upon his duties, every
6 appointee to the New Mexico state police shall be required to
7 attend for a period of at least ninety days a school of
8 instruction approved by the New Mexico state police board. A
9 uniform course of instruction shall be given all trainees
10 governing the operation, maintenance and temporary roadside
11 repair of motor vehicles, the laws of the state [~~which~~] that
12 the appointee may be called on to enforce and other
13 instruction as the [~~New Mexico state police~~] board may
14 require. Attendance at the school or other course of
15 instruction as may be prescribed renders the person attending
16 subject to the control of the New Mexico state police during
17 attendance.

18 B. The board may, within the budgetary means of
19 the New Mexico state police, allow subsistence and
20 compensation for trainees attending the school of instruction
21 at the New Mexico state police headquarters or elsewhere.
22 The compensation allowed for each trainee, excluding room and
23 board for a thirty-day period, shall be in the amount set by
24 the legislature in the general [~~appropriations~~] appropriation
25 act."

Section 27. Section 29-2-22 NMSA 1978 (being Laws 1941,
Chapter 147, Section 21, as amended) is amended to read:

"29-2-22. RULE-MAKING POWER--RULES TO ESTABLISH

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1 STANDARDS OF CONDUCT.--The New Mexico state police board
2 [~~shall have authority to~~] may make and promulgate rules [~~and~~
3 ~~regulations~~] for the purpose of carrying out the provisions
4 of Sections 29-2-1 through 29-2-29 NMSA 1978. The [~~New~~
5 ~~Mexico state police~~] board shall establish by rules, from
6 time to time, standards of conduct for members of the New
7 Mexico state police, and a copy [~~thereof~~] of the rules shall
8 be delivered to each [~~such~~] member and displayed at each
9 station of the [~~department. — Such~~] New Mexico state police.
10 The rules shall be filed pursuant to the State Rules Act."

11 Section 28. Section 29-2-25 NMSA 1978 (being Laws 1947,
12 Chapter 38, Section 1, as amended) is amended to read:

13 "29-2-25. ACCIDENT REPORTS.--When [~~any~~] a member of the
14 New Mexico state police [~~shall investigate~~] investigates a
15 motor vehicle accident, he shall make a written report of his
16 findings on appropriate forms furnished by the New Mexico
17 state police, the original of which report [~~and of all~~
18 ~~reports of motor vehicle accidents heretofore made~~] shall be
19 filed in the office of the New Mexico state police and shall
20 be furnished to any person upon written application
21 accompanied by a fee as set by the New Mexico state police
22 board for the [~~photostat~~] photocopy of each surface of all
23 documents comprising a report."

24 Section 29. Section 29-2-27 NMSA 1978 (being Laws 1969,
25 Chapter 125, Section 1, as amended) is amended to read:

"29-2-27. SECURITY FOR THE GOVERNOR AND THE
LEGISLATURE.--

A. The New Mexico state police shall provide

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1 security and protection for the governor and [~~security and~~
2 ~~protection for the governor's~~] his family. The extent and
3 manner in which the security is provided shall be determined
4 by the governor and the chief [~~of the New Mexico state~~
5 ~~police~~].

6 B. The New Mexico state police shall provide
7 security and protection for the legislature while it is in
8 session."

9 Section 30. Section 29-2-28 NMSA 1978 (being Laws 1971,
10 Chapter 259, Section 1, as amended) is amended to read:

11 "29-2-28. [~~PROVIDE~~] CONCURRENT JURISDICTION OF STATE
12 PROPERTY AND GROUNDS.--The New Mexico state police [~~shall~~
13 ~~have~~] has concurrent jurisdiction for the protection of all
14 public buildings, grounds and property of the state
15 government, its agencies, instrumentalities and institutions,
16 including [~~but not limited to~~] the state capitol and the
17 state capitol complex. [~~Such~~] The concurrent jurisdiction
18 [~~shall include~~] includes the exercise of supervisory
19 authority over any other security forces employed on [~~such~~]
20 the property by the agency, instrumentality or institution at
21 the option or election of the chief [~~of the New Mexico state~~
22 ~~police~~]."

23 Section 31. Section 29-2-29 NMSA 1978 (being Laws 1973,
24 Chapter 297, Section 1, as amended) is amended to read:

25 "29-2-29. STATE POLICE--GROUP LIFE INSURANCE.--
Notwithstanding the provisions of Section 10-7-4 NMSA 1978
and in addition to all other benefits provided commissioned
officers, the [~~department~~] New Mexico state police shall

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1 provide life insurance coverage in the amount of twenty-five
2 thousand dollars (\$25,000) for each member of the state
3 police [~~officer~~], to be paid to his designated beneficiary.
4 The coverage shall include double indemnity provisions for
5 death incurred in line of duty. The coverage shall be
6 provided by a group term insurance policy, the premium for
7 which shall be paid out of state funds appropriated to the
8 [~~department of public safety~~] New Mexico state police."

9 Section 32. Section 29-4-1 NMSA 1978 (being Laws 1939,
10 Chapter 213, Section 1) is amended to read:

11 "29-4-1. ESTABLISHMENT OF TRUST FUNDS--PURPOSE.--
12 Authority is [~~hereby~~] granted to [~~the Board of Supervisors~~
13 ~~of~~] he New Mexico state police board to create and establish
14 [~~in~~] on behalf and for the benefit of eligible members of the
15 New Mexico state police a pension trust fund providing
16 termination [~~benefits~~] and retirement benefits and a
17 supplementary trust fund providing benefits to such members
18 and their dependents in the event of disability or death as
19 limited [~~hereinafter~~] in Sections 29-4-2 through 29-4-11 NMSA
20 1978 or in the trust agreements."

21 Section 33. Section 29-4-2 NMSA 1978 (being Laws 1939,
22 Chapter 213, Section 2) is amended to read:

23 "29-4-2. PROVISIONS GOVERNING TRUST FUNDS--APPROVAL.--
24 All [~~monies~~] money in [~~said~~] the pension trust fund and
25 [~~said~~] the supplementary trust fund shall be deposited,
administered and disbursed in accordance with the terms of
[~~this act~~] Sections 29-4-1 through 29-4-11 NMSA 1978 and with
the terms of the pension trust agreement and supplementary

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1 trust agreement, which shall be drafted pursuant to the terms
2 of [~~this act~~] those sections and shall not become effective
3 until specifically approved by the governor of New Mexico,
4 [~~the Board of Supervisors of~~] the New Mexico state police
5 board and the insurance [~~department~~] division of the [~~state~~
6 ~~of New Mexico~~] public regulation commission."

7 Section 34. Section 29-4-6 NMSA 1978 (being Laws 1939,
8 Chapter 213, Section 6) is amended to read:

9 "29-4-6. PENSION CONSULTANTS EMPLOYMENT--DUTIES.--The
10 [~~Board of Supervisors of the~~] New Mexico state police [~~are~~
11 ~~hereby~~] board is authorized [~~and empowered~~] to engage pension
12 consultants to assist in drafting the trust agreements and
13 establishing an equitable, practical and actuarially sound
14 pension program. The trustee shall engage pension
15 consultants to supervise and assist in the technical
16 operation of the pension trust in order that there may be no
17 deterioration in the actuarial status of the plan."

18 Section 35. Section 29-4-7 NMSA 1978 (being Laws 1939,
19 Chapter 213, Section 7) is amended to read:

20 "29-4-7. TRUSTEE'S ANNUAL REPORT.--Within ninety days
21 after the close of each fiscal year, the trustee, with the
22 aid of the pension consultants, shall prepare and file an
23 annual report with the [~~department~~] New Mexico state police
24 board and the [~~New Mexico~~] insurance [~~department~~] division of
25 the public regulation commission, which shall include the
following:

- A. Schedule [~~I.~~] 1. receipts and disbursements;
- B. Schedule [~~II.~~] 2. assets of pension trust

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1 listing investments as to book value and current market value
2 as of the end of the fiscal year;

3 C. Schedule [~~III.~~] 3. list of terminations,
4 showing cause and amount of refund;

5 D. Schedule [~~IV.~~] 4. the application of
6 actuarially computed "reserve factors" to the payroll data
7 properly classified for the purpose of computing the reserve
8 liability of the trust fund as of the end of the fiscal year;

9 E. Schedule [~~V.~~] 5. the application of
10 actuarially computed "current liability factors" to the
11 payroll data properly classified for the purpose of computing
12 the liability of the trust fund as of the end of the fiscal
13 year; and

14 F. Schedule [~~VI.~~] 6. an actuarial computation of
15 the pension liability for all employees retired prior to the
16 close of the fiscal year."

17 Section 36. Section 29-4-8 NMSA 1978 (being Laws 1939,
18 Chapter 213, Section 8) is amended to read:

19 "29-4-8. ADMINISTRATION OF PENSION PROGRAM.--The
20 complete pension program authorized by the terms of [~~this~~
21 ~~act~~] Sections 29-4-1 through 29-4-11 NMSA 1978 shall be
22 administered by the trustee with the assistance and counsel
23 of a pension advisory board [~~which~~] that shall consist of the
24 chief [~~of the Department~~] as chairman, two members appointed
25 by the [~~Board of Supervisors of the~~] New Mexico state police
[~~with the approval of the governor~~] board and two members
elected by the participating members. One of the initial
appointees and one of the initial elected representatives

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1 shall serve for one-year terms and the other elected and
2 appointed representatives shall serve for two-year terms."

3 Section 37. Section 29-4A-4 NMSA 1978 (being Laws 1995,
4 Chapter 59, Section 4) is amended to read:

5 "29-4A-4. FUND CREATED.--The "peace officers' survivors
6 fund" is created in the state treasury and shall be
7 administered by the [~~department of public safety~~] New Mexico
8 state police. The fund shall consist of all gifts, donations
9 and bequests of money to the fund as well as any
10 appropriations made to the fund. Earnings from investment of
11 the fund shall be credited to the fund. Money in the fund is
12 appropriated to the [~~department of public safety~~] New Mexico
13 state police for the purpose of paying death benefits
14 pursuant to the Peace Officers' Survivors Supplemental
15 Benefits Act and shall be paid out only upon warrants issued
16 by the secretary of finance and administration pursuant to
17 vouchers signed by the [~~secretary of public safety~~] chief.
18 Any unexpended or unencumbered balance remaining in the fund
19 at the end of any fiscal year shall not revert."

20 Section 38. Section 29-6-2 NMSA 1978 (being Laws 1941,
21 Chapter 149, Section 3, as amended) is amended to read:

22 "29-6-2. BOARD OF DIRECTORS--ELECTIONS--COMMISSIONS.--

23 A. The control, management, supervision and power
24 of internal organization is vested in a board of directors
25 composed of not less than one member from each troop of the
New Mexico mounted patrol elected by the members of the
organization to serve for a term of two years and until their
successors are duly elected and qualified. The first

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1 election [~~hereunder~~] of the board shall be held and conducted
2 at such time and pursuant to such rules promulgated by the
3 governor. Succeeding elections shall be pursuant to rules
4 [~~and regulations~~] promulgated by the qualified and active
5 board of directors.

6 B. The [~~director~~] chief of the New Mexico state
7 police may, at the expense of members of the New Mexico
8 mounted patrol, execute and deliver to each member of the
9 mounted patrol proper pocket commissions as emergency and
10 voluntary state police; the [~~same~~] commissions to be
11 effective only upon specific request of the New Mexico state
12 police in each instance of service. [~~Such~~] The commissions
13 shall bear the written approval of the governor of New Mexico
14 [~~such~~]. The commissions shall automatically expire and new
15 ones be issued and delivered upon each change in the
16 [~~directorship~~] chiefship of the New Mexico state police or
17 the governorship."

18
19 Section 39. Section 29-6-4.2 NMSA 1978 (being Laws
20 1999, Chapter 121, Section 1) is amended to read:

21 "29-6-4.2. MOUNTED PATROL--APPLICANTS--CRIMINAL HISTORY
22 SCREENING--DENIAL OF COMMISSION.--

23 A. As used in this section:

24 (1) "criminal record" means information
25 concerning a person's arrests, indictments or other formal
criminal charges and any dispositions arising from them,
including convictions, dismissals, acquittals, sentencing and
correctional supervision, collected by criminal justice

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1 agencies and stored in the databases of the federal bureau of
2 investigation, the national law enforcement
3 telecommunications system, the ~~[department of public safety]~~
4 New Mexico state police or the repositories of criminal
5 history information of other states; and

6 (2) "criminal history screening" means a
7 criminal history background investigation of an applicant for
8 the New Mexico mounted patrol conducted by using fingerprints
9 collected by the ~~[department of public safety]~~ New Mexico
10 state police or a local law enforcement agency and submitted
11 to the federal bureau of investigation.

12 B. The New Mexico mounted patrol shall perform a
13 criminal history screening on all applicants for mounted
14 patrol. If an applicant has a criminal record, his
15 application for a commission in the mounted patrol may be
16 denied. If an applicant has a felony conviction or a
17 conviction for a misdemeanor involving moral turpitude, his
18 application for a commission in the mounted patrol shall be
19 denied.

20 C. The chief ~~[of the New Mexico state police]~~
21 shall determine whether to grant a commission to an applicant
22 who has a criminal record that did not result in conviction
23 of a felony or a misdemeanor involving moral turpitude. The
24 chief's decision to deny an application for a commission in
25 the New Mexico mounted patrol is final and may not be
appealed.

D. An applicant for the New Mexico mounted patrol
shall be fingerprinted and the applicant shall provide two

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1 fingerprint cards or the equivalent electronic fingerprints
2 to the mounted patrol to assist the mounted patrol in
3 conducting a criminal history screening of the applicant.
4 The applicant shall pay the cost of the criminal history
5 screening. The mounted patrol shall not charge the applicant
6 more than the actual cost of the nationwide criminal history
7 screening."

8 Section 40. Section 29-7-3 NMSA 1978 (being Laws 1979,
9 Chapter 202, Section 42, as amended) is amended to read:

10 "29-7-3. NEW MEXICO LAW ENFORCEMENT ACADEMY BOARD.--

11 A. There is created the "New Mexico law
12 enforcement academy board".

13 B. The academy shall be controlled and supervised
14 by policy set by the board. The board shall be composed of
15 the attorney general, who shall serve automatically by reason
16 of his office and serve as chairman of the board, and [~~six~~]
17 eight members who are qualified electors to be appointed by
18 the governor and confirmed by the senate. An appointed board
19 member shall serve and have all of the duties,
20 responsibilities and authority of that office during the
21 period prior to the final action by the senate in confirming
22 or rejecting the appointment.

23 C. [~~On or before July 1, 1994, the governor shall~~
24 ~~increase the number of members on the board to eight by~~
25 ~~appointing two additional members. The seventh member of the~~
~~board shall be a citizen at large member whose term shall end~~
~~on July 1, 1996. The eighth member of the board shall be a~~
~~police officer who is a New Mexico certified police officer,~~

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1 ~~holding the rank of sergeant or below at the time of his~~
2 ~~appointment, and whose term shall end on July 1, 1996 or~~
3 ~~sooner if he retires or is deactivated from duty for longer~~
4 ~~than thirty days.]~~ Appointments to the board shall be for
5 terms of four years or less made in such manner that the
6 terms of not more than two members expire on July 1 of each
7 year. At all times, the board shall have represented on it,
8 as members, one municipal police chief, one sheriff, one
9 state police officer, one district attorney, one certified
10 police chief of a New Mexico Indian tribe or pueblo, one
11 certified New Mexico police officer holding the rank of
12 sergeant or below and two citizen-at-large members.
13 Vacancies shall be filled by the governor for the unexpired
14 term.

15 D. Members of the board [~~shall~~] may receive, for
16 their service as members of the board, per diem and mileage
17 as provided in the Per Diem and Mileage Act and shall receive
18 no other compensation, perquisite or allowance."

19 Section 41. Section 29-7-4 NMSA 1978 (being Laws 1969,
20 Chapter 264, Section 6, as amended) is amended to read:

21 "29-7-4. POWERS AND DUTIES OF BOARD.--The academy board
22 shall:

23 A. approve or disapprove the appointment of the
24 director of the academy [~~by the secretary of public safety~~];

25 B. develop and implement a planned program of
basic law enforcement training and in-service law enforcement
training, a portion of which may be conducted on a regional
basis;

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1 C. prescribe qualifications for instructors and
2 prescribe courses of instruction for basic law enforcement
3 training and in-service law enforcement training;

4 D. report annually to the governor;

5 E. in its discretion, accept donations,
6 contributions, grants or gifts from whatever source for the
7 benefit of the academy, which donations, contributions,
8 grants or gifts are appropriated for the use of the academy;

9 F. adopt, publish and file, in accordance with the
10 provisions of the State Rules Act, all ~~[regulations and]~~
11 rules concerning the operation of the academy and the
12 implementation and enforcement of the provisions of the Law
13 Enforcement Training Act;

14 G. issue, grant, deny, renew, suspend or revoke a
15 peace officer's certification for any cause set forth in the
16 provisions of the Law Enforcement Training Act;

17 H. administer oaths and take testimony on any
18 matter within the academy board's jurisdiction; and

19 I. perform all other acts appropriate to the
20 development and operation of the academy."

21 Section 42. Section 29-7-6.1 NMSA 1978 (being Laws
22 1993, Chapter 255, Section 7) is amended to read:

23 "29-7-6.1. COUNTY SHERIFFS--TRAINING REQUIREMENT.--

24 A. Every county sheriff, except sheriffs who have
25 previously been awarded a certificate attesting to completion
of a basic law enforcement training program, shall
participate in and complete an administrative law enforcement
training program no later than twelve months after the date

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1 he assumes office as a county sheriff.

2 B. The ~~[director of the training and recruiting~~
3 ~~division of the department of public safety]~~ academy shall
4 establish the administrative law enforcement training program
5 for county sheriffs, subject to review and approval by the
6 executive committee of the sheriff's affiliate of the New
7 Mexico association of counties.

8 C. A county sheriff's per diem, mileage and
9 tuition expenses attributed to attendance at the
10 administrative law enforcement training shall be paid for by
11 the governing body of the county served by that sheriff."

12 Section 43. Section 29-7A-1 NMSA 1978 (being Laws 1979,
13 Chapter 228, Section 1) is amended to read:

14 "29-7A-1. SHORT TITLE.--~~[This act]~~ Chapter 29, Article
15 7A NMSA 1978 may be cited as the "Police Radio Dispatcher
16 Training Act"."

17 Section 44. Section 29-7A-2 NMSA 1978 (being Laws 1979,
18 Chapter 228, Section 2) is amended to read:

19 "29-7A-2. QUALIFICATIONS FOR ADMISSION ~~[TO THE TRAINING~~
20 ~~AND EDUCATION BUREAU]~~.--The ~~[chief]~~ director of the academy
21 shall determine that all applicants for admission to the
22 radio dispatcher training program ~~[of the training and~~
23 ~~education bureau of the criminal justice department]~~:

- 24 A. are citizens of the United States and have
- 25 reached the age of majority;
- B. hold high school diplomas or the equivalent;
- C. have not been convicted of a felony or other
crime involving moral turpitude as determined by submission

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1 of the applicant's fingerprints to the [~~technical services~~
2 ~~bureau of the criminal justice department~~] New Mexico state
3 police and to the [~~FBI~~] federal bureau of investigation
4 identification division and by such other investigations as
5 required by the applicant's place of employment; and

6 D. are free of any physical, emotional or mental
7 condition [~~which~~] that might adversely affect their
8 performance."

9 Section 45. Section 29-7A-3 NMSA 1978 (being Laws 1979,
10 Chapter 228, Section 3) is amended to read:

11 "29-7A-3. BASIC COURSE MINIMUM REQUIREMENTS.--The basic
12 course offered by the [~~training and education bureau~~] academy
13 shall consist of not less than forty hours of instruction and
14 training and shall consist of subjects appropriate for the
15 basic training of police radio dispatchers in techniques of
16 law enforcement communications, as recommended by the
17 majority of the participating law enforcement agencies."

18 Section 46. Section 29-7A-4 NMSA 1978 (being Laws 1979,
19 Chapter 228, Section 4) is amended to read:

20 "29-7A-4. PREREQUISITES FOR PERMANENT APPOINTMENT AS A
21 POLICE RADIO DISPATCHER.--

22 A. Notwithstanding any provisions of any general,
23 special or local law to the contrary, no person shall receive
24 an original appointment on a permanent basis as a police
25 radio dispatcher to any law enforcement agency in this state
unless [~~such person~~] he has previously been awarded a
certificate by the [~~chief of the training and education~~
~~bureau~~] director of the academy attesting to [~~such person's~~]

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1 his satisfactory completion of an approved police radio
2 dispatcher basic training program [~~and~~]. Every person who is
3 employed, after the effective date of the Police Radio
4 Dispatcher Training Act, as a police radio dispatcher by any
5 law enforcement unit in this state shall forfeit his position
6 as such unless, within twelve months from the date of his
7 employment, he satisfactorily completes a police radio
8 dispatcher basic training program and is awarded a
9 certificate attesting thereto. The [~~chief of the training~~
10 ~~and education bureau~~] director of the academy shall waive the
11 [~~above~~] training requirements for all police radio
12 dispatchers who are serving full time on the effective date
13 of the Police Radio Dispatcher Training Act and shall award
14 each such police radio dispatcher a certificate.

15 B. For the purposes of the Police Radio Dispatcher
16 Training Act, "police radio dispatcher" means any full-time
17 employee, sworn or civilian, who is employed to dispatch
18 police units by means of radio communications [~~which is~~] that
19 are part of or administered by the state or any political
20 subdivision."

21 Section 47. Section 29-7A-5 NMSA 1978 (being Laws 1979,
22 Chapter 228, Section 5) is amended to read:

23 "29-7A-5. CERTIFICATION BY WAIVER.--The [~~chief of the~~
24 ~~training and education bureau~~] director of the academy shall,
25 with the approval of the [~~secretary of criminal justice~~]
academy board, waive the basic police radio dispatcher
training program and certify applicants who furnish evidence
of satisfactory completion of a basic police radio dispatcher

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1 training program [~~which~~] that, in the [~~chief's~~] director's
2 opinion, is comparable to that of the police radio dispatcher
3 training program offered by the [~~training and education~~
4 ~~bureau~~] academy."

5 Section 48. Section 29-7A-6 NMSA 1978 (being Laws 1979,
6 Chapter 228, Section 6) is amended to read:

7 "29-7A-6. CORRESPONDENCE COURSE.--The [~~chief~~] director
8 of the academy shall develop a correspondence course for
9 those applicants [~~which~~] who, due to severe handicap, cannot
10 attend the program offered by the [~~training and education~~
11 ~~bureau~~] academy."

12 Section 49. Section 29-7A-7 NMSA 1978 (being Laws 1979,
13 Chapter 228, Section 7) is amended to read:

14 "29-7A-7. ROSTERS.--The [~~chief of the training and~~
15 ~~education bureau~~] director of the academy shall maintain a
16 roster of all certified police radio dispatchers."

17 Section 50. Section 29-7B-1 NMSA 1978 (being Laws 1994,
18 Chapter 35, Section 1) is amended to read:

19 "29-7B-1. SHORT TITLE.--[~~This act~~] Chapter 29, Article
20 7B NMSA 1978 may be cited as the "Law Enforcement Youth Cadet
21 Corps Act".

22 Section 51. Section 29-7B-3 NMSA 1978 (being Laws 1994,
23 Chapter 35, Section 3) is amended to read:

24 "29-7B-3. DEFINITIONS.--As used in the Law Enforcement
25 Youth Cadet Corps Act:

A. "academy" means the New Mexico law enforcement
academy;

[~~B. "department" means the department of public~~

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1 ~~safety;~~

2 ~~E.]~~ B. "program" means a law enforcement
3 leadership training and awareness program conducted at the
4 academy; and

5 ~~D.]~~ C. "student" means ~~[an individual]~~ a person
6 enrolled in a high school in New Mexico."

7 Section 52. Section 29-7B-4 NMSA 1978 (being Laws 1994,
8 Chapter 35, Section 4) is amended to read:

9 "29-7B-4. LAW ENFORCEMENT LEADERSHIP TRAINING AND
10 AWARENESS PROGRAM--ADMINISTRATION.--The ~~[department]~~ academy
11 shall:

12 A. provide information to high schools regarding
13 the existence of the program and the availability of
14 scholarships to students who apply to participate in the
15 program;

16 B. approve or disapprove student applications to
17 participate in the program, with priority given to students
18 who express a desire to pursue a career in law enforcement;

19 C. organize and schedule no less than four
20 programs at the academy annually, with each program to
21 consist of not less than ten students; and

22 D. promulgate rules regarding the content of the
23 program, including:

24 (1) providing students with leadership
25 training;

(2) improving students' awareness of the
functions and roles of law enforcement agencies in New
Mexico; and

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(3) preparing students to assist as volunteers in law enforcement programs in their own communities, including neighborhood watch, D.A.R.E. and pounders."

Section 53. Section 29-11A-5 NMSA 1978 (being Laws 1995, Chapter 106, Section 5, as amended) is amended to read:

"29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--
ADMINISTRATION [~~BY DEPARTMENT OF PUBLIC SAFETY~~]
PARTICIPATION IN THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

A. A county sheriff shall maintain a local registry of sex offenders in his jurisdiction required to register pursuant to the provisions of the Sex Offender Registration and Notification Act.

B. The county sheriff shall forward registration information obtained from sex offenders to the [~~department of public safety~~] New Mexico state police. The registration information shall be forwarded by the county sheriff no later than ten working days after the information is obtained from a sex offender.

C. The [~~department of public safety~~] New Mexico state police shall maintain a central registry of sex offenders required to register pursuant to the provisions of the Sex Offender Registration and Notification Act. The [~~department~~] New Mexico state police shall participate in the national sex offender registry administered by the United States department of justice.

D. The [~~department of public safety~~] New Mexico state police shall retain registration information regarding

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1 sex offenders convicted for the following sex offenses for a
2 period of twenty years following the sex offender's
3 conviction, release from prison or release from probation or
4 parole, whichever occurs later:

5 (1) criminal sexual penetration in the first
6 or second degree, as provided in Section 30-9-11 NMSA 1978;

7 (2) criminal sexual contact of a minor in
8 the third degree, as provided in Section 30-9-13 NMSA 1978;

9 (3) sexual exploitation of children, as
10 provided in Subsection A, B or C of Section 30-6A-3 NMSA
11 1978; or

12 (4) attempt to commit any of the sex
13 offenses set forth in Paragraphs (1) through (3) of this
14 subsection, as provided in Section 30-28-1 NMSA 1978.

15 E. The ~~[department of public safety]~~ New Mexico
16 state police shall retain registration information regarding
17 sex offenders convicted for the following offenses for a
18 period of ten years following the sex offender's conviction,
19 release from prison or release from probation or parole,
20 whichever occurs later:

21 (1) criminal sexual penetration in the third
22 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

23 (2) criminal sexual contact in the fourth
24 degree, as provided in Section 30-9-12 NMSA 1978;

25 (3) criminal sexual contact of a minor in
the fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children by
prostitution, as provided in Section 30-6A-4 NMSA 1978;

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1 (5) solicitation to commit criminal sexual
2 contact of a minor in the third or fourth degree, as provided
3 in Sections 30-9-13 and 30-28-3 NMSA 1978; or

4 (6) attempt to commit any of the sex
5 offenses set forth in Paragraphs (1) through (4) of this
6 subsection, as provided in Section 30-28-1 NMSA 1978.

7 F. The ~~[department of public safety]~~ New Mexico
8 state police shall adopt rules necessary to carry out the
9 provisions of the Sex Offender Registration and Notification
10 Act."

11 Section 54. Section 29-11A-5.1 NMSA 1978 (being Laws
12 1999, Chapter 19, Section 8) is amended to read:

13 "29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING
14 CERTAIN REGISTERED SEX OFFENDERS.--

15 A. If a sex offender is convicted of one of the
16 following sex offenses, the county sheriff shall forward
17 registration information obtained from the sex offender to
18 the district attorney for the judicial district in which the
19 sex offender resides and, if the sex offender is a resident
20 of a municipality, the chief law enforcement officer for the
21 municipality in which the sex offender resides:

22 (1) criminal sexual penetration in the first
23 or second degree, as provided in Section 30-9-11 NMSA 1978;

24 (2) criminal sexual contact of a minor in
25 the third or fourth degree, as provided in Section 30-9-13
NMSA 1978;

(3) sexual exploitation of children, as
provided in Subsection A, B or C of Section 30-6A-3 NMSA

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1 1978;

2 (4) sexual exploitation of children by
3 prostitution, as provided in Section 30-6A-4 NMSA 1978; or

4 (5) attempt to commit any of the sex
5 offenses set forth in Paragraphs (1) through (4) of this
6 subsection, as provided in Section 30-28-1 NMSA 1978.

7 B. A person who wants to obtain registration
8 information regarding a sex offender described in Subsection
9 A of this section may request that information from the:

10 (1) county sheriff for the county in which
11 the sex offender resides;

12 (2) chief law enforcement officer for the
13 municipality in which the sex offender resides;

14 (3) district attorney for the judicial
15 district in which the sex offender resides; or

16 (4) ~~[secretary of public safety]~~ chief of
17 the New Mexico state police.

18 C. All requests for registration information
19 regarding a sex offender described in Subsection A of this
20 section are subject to the provisions of the Inspection of
21 Public Records Act."

22 Section 55. Section 29-11A-7 NMSA 1978 (being Laws
23 1995, Chapter 106, Section 7, as amended) is amended to read:

24 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO
25 REGISTER.--

A. A court shall provide a sex offender convicted
in that court with written notice of his duty to register
pursuant to the provisions of the Sex Offender Registration

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1 and Notification Act. The written notice shall be included
2 in judgment and sentence forms provided to the sex offender.

3 B. The corrections department, at the time of
4 release of a sex offender in the department's custody, shall
5 provide written notification to the sex offender of his duty
6 to register pursuant to the provisions of the Sex Offender
7 Registration and Notification Act. The corrections
8 department shall also provide written notification regarding
9 a sex offender's release to the sheriff of the county in
10 which the sex offender is released.

11 C. The [~~department of public safety~~] New Mexico
12 state police, at the time it is notified by officials from
13 another state that a sex offender will be establishing
14 residence in New Mexico, shall provide written notification
15 to the sex offender of his duty to register pursuant to the
16 provisions of the Sex Offender Registration and Notification
17 Act."

18 Section 56. Section 29-13-2.1 NMSA 1978 (being Laws
19 1993, Chapter 179, Section 4, as amended) is amended to read:

20 "29-13-2.1. DEFINITIONS.--As used in the Law
21 Enforcement Protection Fund Act:

22 A. "division" means the local government division
23 of the department of finance and administration;

24 B. "fund" means the law enforcement protection
25 fund;

C. "governmental entity" means a municipality,
university, tribe or pueblo or a county;

D. "tribal police department" means any tribal or

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1 pueblo police department that has entered into an agreement
2 with the [~~department of public safety~~] New Mexico state
3 police pursuant to Section 29-1-11 NMSA 1978; and

4 E. "university" means a four-year post-secondary
5 institution listed in Article 12, Section 11 of the
6 constitution of New Mexico."

7 Section 57. Section 29-14-10 NMSA 1978 (being Laws
8 1991, Chapter 117, Section 10) is amended to read:

9 "29-14-10. POLITICAL ACTIVITY.--

10 A. A peace officer shall not be prohibited by his
11 police or sheriff's department employer from engaging in any
12 political activity when the officer is off duty, except as
13 otherwise required by law.

14 B. Notwithstanding the provisions of Subsection A
15 of this section, any peace officer employed by the New Mexico
16 state police [~~department~~] shall be governed by the provisions
17 of [~~regulations~~] rules adopted by the [~~department~~] New Mexico
18 state police regarding political activity."

19 Section 58. Section 29-15-3 NMSA 1978 (being Laws 1995,
20 Chapter 146, Section 3) is amended to read:

21 "29-15-3. MISSING PERSONS INFORMATION CLEARINGHOUSE--
22 FUNCTION.--

23 A. The "missing persons information clearinghouse"
24 is established in the [~~department of public safety~~] New
25 Mexico state police. The [~~department of public safety~~] New
Mexico state police shall provide for the administration of
the clearinghouse. The [~~department of public safety~~] New
Mexico state police may adopt rules [~~and regulations~~] to

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1 carry out the provisions of the Missing Persons Information
2 Act in the manner prescribed in Subsection E of Section 9-1-5
3 NMSA 1978.

4 B. The clearinghouse is a central repository of
5 information on missing persons and shall be used by all law
6 enforcement agencies, including tribal agencies, in this
7 state.

8 C. The clearinghouse shall:

9 (1) establish a system of intrastate
10 communication of information relating to missing persons;

11 (2) provide a centralized file for the
12 exchange of information on missing persons and unidentified
13 bodies of persons within the state;

14 (3) communicate with the national crime
15 information center for the exchange of information on missing
16 persons suspected of interstate travel;

17 (4) collect, process, maintain and
18 disseminate accurate and complete information on missing
19 persons;

20 (5) provide a statewide toll-free telephone
21 line for the reporting of missing persons and for receiving
22 information on missing persons;

23 (6) disseminate to custodians, law
24 enforcement agencies, the state department of public
25 education, the children, youth and families department and
the general public information that explains how to prevent
child abduction and what to do if a child becomes missing;

(7) compile statistics relating to the

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1 incidence of missing persons within the state;

2 (8) provide training and technical
3 assistance to law enforcement agencies and social services
4 agencies pertaining to missing persons; and

5 (9) establish a media protocol for
6 disseminating information pertaining to missing persons.

7 D. The clearinghouse shall print and distribute
8 posters, flyers and other forms of information containing
9 descriptions of missing persons.

10 E. The ~~[department of public safety]~~ New Mexico
11 state police may accept public or private grants, gifts and
12 donations to assist the department in carrying out the
13 provisions of the Missing Persons Information Act."

14 Section 59. Section 29-15-10 NMSA 1978 (being Laws
15 1995, Chapter 146, Section 10) is amended to read:

16 "29-15-10. INTERAGENCY COOPERATION.--

17 A. State agencies and public and private schools
18 shall cooperate with a law enforcement agency that is
19 investigating a missing person report and shall furnish any
20 information that will assist the law enforcement agency in
21 completing the investigation.

22 B. Information provided by a state agency or a
23 public or private school shall not be released to any person
24 outside the law enforcement agency or the clearinghouse,
25 except as provided by ~~[regulation]~~ rule of the ~~[department of~~
~~public safety]~~ New Mexico state police."

Section 60. Section 29-15-11 NMSA 1978 (being Laws
1995, Chapter 146, Section 11) is amended to read:

1 "29-15-11. CONFIDENTIALITY OF RECORDS.--

2 A. The [~~department of public safety~~] New Mexico
3 state police shall by [~~regulation~~] rule provide for the
4 classification of information and records as confidential
5 that:

6 (1) are otherwise confidential under state
7 or federal law or [~~regulations~~] rules adopted pursuant to
8 state or federal law;

9 (2) are related to the investigation by a
10 law enforcement agency of a missing person or an unidentified
11 body, if the [~~department of public safety~~] New Mexico state
12 police, in consultation with the law enforcement agency,
13 determines that release of the information would be
14 deleterious to the investigation;

15 (3) are records or notations that the
16 clearinghouse maintains for internal use in matters relating
17 to missing persons and unidentified bodies and the
18 [~~department of public safety~~] New Mexico state police
19 determines that release of the internal documents might
20 interfere with an investigation by a law enforcement agency
21 in New Mexico or any other jurisdiction; or

22 (4) the [~~department of public safety~~] New
23 Mexico state police determines might interfere with an
24 investigation or otherwise harm a person, custodian or
25 reporter.

B. The [~~regulation~~] rule may provide for the
sharing of confidential information with the custodian or
immediate family member of the missing person."

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1 Section 61. Section 29-16-1 NMSA 1978 (being Laws 1997,
2 Chapter 105, Section 1) is amended to read:

3 "29-16-1. SHORT TITLE.--~~[This act]~~ Chapter 29, Article
4 16 NMSA 1978 may be cited as the "DNA Identification Act"."

5 Section 62. Section 29-16-3 NMSA 1978 (being Laws 1997,
6 Chapter 105, Section 3) is amended to read:

7 "29-16-3. DEFINITIONS.--As used in the DNA
8 Identification Act:

9 A. "administrative center" means the law
10 enforcement agency or unit that administers and operates the
11 DNA identification system;

12 B. "DNA oversight committee" means the DNA
13 identification system oversight committee;

14 C. "chief" means the chief of the New Mexico state
15 police;

16 ~~[E.]~~ D. "CODIS" means the federal bureau of
17 investigation's national DNA index system for storage and
18 exchange of DNA records submitted by forensic DNA
19 laboratories;

20 ~~[D.]~~ E. "covered offender" means any person
21 convicted of a felony offense as an adult under the Criminal
22 Code, the Motor Vehicle Code or the constitution of New
23 Mexico or convicted as an adult pursuant to youthful offender
24 or serious youthful offender proceedings under the Children's
25 Code;

~~[E.]~~ F. "department" means the ~~[department of~~
~~public safety]~~ New Mexico state police;

~~[F.]~~ G. "DNA" means deoxyribonucleic acid as the

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1 basis of human heredity;

2 [G.] H. "DNA identification system" means the DNA
3 identification system established pursuant to the DNA
4 Identification Act;

5 [H.] I. "DNA records" means the results of DNA
6 testing and related information;

7 [I.] J. "DNA testing" means a forensic DNA
8 analysis that includes restriction fragment length
9 polymorphism, polymerase chain reaction or other valid
10 methods of DNA typing performed to obtain identification
11 characteristics of samples;

12 [J.] K. "fund" means the DNA identification system
13 fund; and

14 [K.] L. "sample" means a sample of biological
15 material sufficient for DNA testing."

16 Section 63. Section 29-16-4 NMSA 1978 (being Laws 1997,
17 Chapter 105, Section 4) is amended to read:

18 "29-16-4. ADMINISTRATIVE CENTER--POWERS AND DUTIES--
19 TRANSFER TO OTHER LAW ENFORCEMENT AGENCY.--

20 A. The administrative center shall be an
21 appropriate unit of the department or such other qualified
22 New Mexico law enforcement agency as the [~~secretary of public~~
23 ~~safety~~] chief may designate in accordance with this section.

24 B. The administrative center shall:

25 (1) establish and administer the DNA
identification system. The DNA identification system shall
provide for collection, storage, DNA testing, maintenance and
comparison of samples and DNA records for forensic purposes.

1 Such purposes shall include generation of investigative leads
2 and statistical analysis of DNA profiles. Procedures used
3 for DNA testing shall be compatible with the procedures the
4 federal bureau of investigation has specified, including
5 comparable test procedures, laboratory equipment, supplies
6 and computer software. Procedures used shall meet or exceed
7 the provisions of the federal DNA Identification Act of 1994
8 regarding minimum standards for state participation in CODIS,
9 including minimum standards for the acceptance, security and
10 dissemination of DNA records;

11 (2) coordinate sample collection activities;

12 (3) perform or contract for DNA testing;

13 (4) serve as a repository for samples and
14 DNA records;

15 (5) act as liaison with the federal bureau
16 of investigation for purposes of CODIS; and

17 (6) adopt ~~[regulations]~~ rules and procedures
18 governing:

19 (a) sample collection;

20 (b) DNA testing;

21 (c) the DNA identification system and
22 DNA records; and

23 (d) the acceptance, security and
24 dissemination of DNA records.

25 C. The ~~[secretary of public safety]~~ chief may
designate, pursuant to a joint powers agreement, the crime
laboratory of the police department for the largest
municipality in a class A county having a population of more

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1 than two hundred fifty thousand at the most recent federal
2 decennial census to act as the administrative center.

3 D. The [~~secretary of public safety~~] chief may
4 designate, pursuant to a joint powers agreement, any other
5 law enforcement agency to act as administrative center upon
6 recommendation of five voting members of the [~~advisory~~] DNA
7 oversight committee."

8 Section 64. Section 29-16-5 NMSA 1978 (being Laws 1997,
9 Chapter 105, Section 5) is amended to read:

10 "29-16-5. DNA OVERSIGHT COMMITTEE--CREATED--POWERS AND
11 DUTIES.--

12 A. The "DNA identification system oversight
13 committee" is created. The DNA oversight committee shall be
14 composed of nine voting members as follows:

15 (1) a scientific representative from the
16 department crime laboratory appointed by the [~~secretary of~~
17 ~~public safety~~] chief;

18 (2) a scientific representative from the
19 crime laboratory of the police department for the largest
20 municipality in a class A county having a population of more
21 than two hundred fifty thousand at the most recent federal
22 decennial census;

23 (3) the secretary of corrections or his
24 designated representative;

25 (4) the state medical investigator or his
designated representative;

(5) the attorney general or his designated
representative;

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1 (6) the president of the district attorney's
2 association or his designated representative;

3 (7) the chief public defender or his
4 designated representative; ~~and~~

5 (8) the president of the New Mexico criminal
6 defense lawyers association or his designated representative;
7 and

8 (9) the head of the administrative center or
9 his designated representative.

10 B. The DNA oversight committee shall adopt rules
11 ~~[regulations]~~ and procedures regarding the administration and
12 operation of the DNA identification system.

13 C. The administrative center shall review and make
14 recommendations to the DNA oversight committee regarding
15 rules ~~[regulations]~~ and procedures for the administration and
16 operation of the DNA identification system."

17 Section 65. Section 29-17-4 NMSA 1978 (being Laws 1998,
18 Chapter 68, Section 3, as amended) is amended to read:

19 "29-17-4. DEFINITIONS.--As used in the Caregivers
20 Criminal History Screening Act:

21 A. "applicant" means a person who seeks and is
22 offered employment or contractual service as a caregiver with
23 a care provider;

24 B. "caregiver" means a person, not otherwise
25 required to undergo a nationwide criminal history screening
by the New Mexico Children's and Juvenile Facility Criminal
Records Screening Act, whose employment or contractual
service with a care provider includes direct care or routine

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1 and unsupervised physical or financial access to any care
2 recipient served by that provider;

3 C. "care provider" or "provider" means a skilled
4 nursing facility; an intermediate care facility; a care
5 facility for the mentally retarded; a psychiatric facility; a
6 rehabilitation facility; a home health agency; a homemaker
7 agency; a home for the aged or disabled; a group home; an
8 adult foster care home; a guardian service provider; a case
9 management entity that provides services to people with
10 developmental disabilities; a private residence that provides
11 personal care, adult residential care or nursing care for two
12 or more persons not related by blood or marriage to the
13 facility's operator or owner; an adult daycare center; a
14 boarding home; an adult residential care home; a residential
15 service or habilitation service authorized to be reimbursed
16 by medicaid; any licensed or medicaid-certified entity or any
17 program funded by the state agency on aging that provides
18 respite, companion or personal care services; or programs
19 funded by the children, youth and families department that
20 provide homemaker or adult daycare services. "Care provider"
21 or "provider" does not include general acute care hospitals,
22 resident care facilities located at or performing services
23 exclusively for any correctional facility, outpatient
24 treatment facilities, diagnostic and treatment facilities,
25 ambulatory surgical centers and facilities, end-stage renal
dialysis and treatment facilities, rural health clinics,
private physicians' offices or other clinics that operate in
the same manner as private physicians' offices in group

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1 practice settings;

2 D. "care recipient" means any person under the
3 care of a provider who has a physical or mental illness,
4 injury or disability or who suffers from any cognitive
5 impairment that restricts or limits the person's activities;

6 E. "nationwide criminal history screening" means a
7 criminal history background investigation of an applicant or
8 caregiver through the use of fingerprints collected by the
9 ~~[department of public safety]~~ New Mexico state police and
10 submitted to the federal bureau of investigation, resulting
11 in generation of a nationwide criminal history record for
12 that applicant or caregiver; and

13 F. "nationwide criminal history record" means
14 information concerning a person's arrests, indictments or
15 other formal criminal charges and any dispositions arising
16 therefrom, including convictions, dismissals, acquittals,
17 sentencing and correctional supervision, collected by
18 criminal justice agencies and stored in the computerized
19 databases of the federal bureau of investigation, the
20 national law enforcement telecommunications system, the
21 department of public safety or the repositories of criminal
22 history information of other states."

23 Section 66. Section 29-17-5 NMSA 1978 (being Laws 1998,
24 Chapter 68, Section 4, as amended) is amended to read:

25 "29-17-5. CRIMINAL HISTORY SCREENING REQUIRED--
REGULATORY IMPLEMENTATION--APPEALS.--

A. The department of health is authorized to
receive an applicant's or caregiver's nationwide criminal

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1 history record obtained by the [~~department of public safety~~]
2 New Mexico state police as a result of a nationwide criminal
3 history screening pursuant to an applicant's or caregiver's
4 authorization for such nationwide criminal history screening.
5 Providers shall submit a set of fingerprints of applicants
6 and caregivers to the department of health for a nationwide
7 criminal history screening, and the [~~department of public~~
8 ~~safety~~] New Mexico state police shall accept from the
9 department of health such fingerprints for the purpose of
10 conducting a nationwide criminal history screening.

11 B. The department of health is authorized to
12 promulgate [~~regulations~~] rules to implement the Caregivers
13 Criminal History Screening Act, including [~~regulations~~] rules
14 establishing a three-year phased implementation based upon
15 provider type; fingerprint submission procedures; fees;
16 confidentiality; timeframes for an applicant's or caregiver's
17 nationwide criminal history screening; procedures for
18 clarifying incomplete or confusing criminal history
19 information; provider sanctions for noncompliance; and
20 employment procedures pending the results of the nationwide
21 criminal history screening relating to applicants and
22 caregivers.

23 C. No caregiver may be employed by a care provider
24 unless the caregiver first has submitted to a request for a
25 nationwide criminal history screening prior to beginning
employment in accordance with procedures established by
[~~regulation by~~] rule of the [~~departments~~] department of
health and [~~public safety~~] the New Mexico state police or

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1 unless the caregiver has submitted to a nationwide criminal
2 history screening and has been cleared within the previous
3 twelve months.

4 D. The following felony convictions disqualify an
5 applicant or caregiver from employment as a caregiver:

- 6 (1) homicide;
- 7 (2) trafficking controlled substances;
- 8 (3) kidnapping, false imprisonment,
9 aggravated assault or aggravated battery;
- 10 (4) rape, criminal sexual penetration,
11 criminal sexual contact, incest, indecent exposure or other
12 related sexual offenses;
- 13 (5) crimes involving adult abuse, neglect or
14 financial exploitation;
- 15 (6) crimes involving child abuse or neglect;
- 16 or
- 17 (7) robbery, larceny, extortion, forgery,
18 embezzlement, credit card fraud or receiving stolen property.

19 E. Upon receipt by the department of health of the
20 results of the applicant's or caregiver's nationwide criminal
21 history screening, the department of health shall give notice
22 to the submitting care provider whether or not the applicant
23 or caregiver has a disqualifying conviction of a crime
24 specified in Subsection D of this section. No other results
25 of the applicant's or caregiver's nationwide criminal history
screening shall be provided to the care provider. Except as
provided in Subsection F of this section, a care provider
shall not employ an applicant or continue to employ a

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1 caregiver whose nationwide criminal history [~~screening~~]
2 record reflects a disqualifying conviction. When the
3 department of health provides notice to the care provider of
4 a disqualifying conviction of a crime specified in Subsection
5 D of this section, it shall also notify the applicant or
6 caregiver, stating with specificity the convictions on which
7 its decision is based and identifying the agency that
8 provided the records.

9 F. An applicant or caregiver whose nationwide
10 criminal history record, obtained through the applicant's or
11 caregiver's nationwide criminal history screening and other
12 clarifying endeavors of the department of health, reflects a
13 disqualifying conviction of a crime specified in Subsection D
14 of this section may request from the department of health an
15 administrative reconsideration. The care provider may, in
16 its discretion, continue to employ such person during the
17 pendency of the reconsideration. A care provider may employ
18 the applicant or caregiver if the reconsideration proceeding
19 results in a determination by the department of health that
20 the applicant's or caregiver's nationwide criminal history
21 record inaccurately reflects a disqualifying conviction of a
22 crime specified in Subsection D of this section or that the
23 employment presents no risk of harm to a care recipient or
24 that the conviction does not directly bear upon the
25 applicant's or caregiver's fitness for the employment.

G. The department of health is authorized to adopt
~~[regulations]~~ rules for the administrative reconsideration
proceeding available to an applicant or caregiver whose

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1 nationwide criminal history record reflects a disqualifying
2 conviction. The [~~regulations~~] rules shall take into account
3 the requirements of the Criminal Offender Employment Act.

4 H. A care provider shall maintain records
5 evidencing compliance with the requirements of this section
6 with respect to all applicants and caregivers employed on or
7 after May 20, 1998.

8 I. All criminal history records obtained pursuant
9 to this section by the department of health are confidential.
10 No criminal history records obtained pursuant to this section
11 shall be used for any purpose other than determining whether
12 an applicant or caregiver has a criminal conviction that
13 would disqualify him from employment as a caregiver. Except
14 on court order or with the written consent of the applicant
15 or caregiver, criminal records obtained pursuant to this
16 section and the information contained therein shall not be
17 released or otherwise disclosed to any other person or
18 agency. A person who discloses confidential records or
19 information in violation of this section is guilty of a
20 misdemeanor and shall be sentenced pursuant to the provisions
21 of Subsection A of Section 31-19-1 NMSA 1978.

22 J. The department of health shall maintain a
23 registry of all applicants who are disqualified from
24 employment or contractual service as caregivers. An
25 applicant's arrest record information shall not be released
except upon request of the applicant as provided in the
Arrest Record Information Act.

K. A care provider, including its administrators

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1 and employees, is not civilly liable to an applicant or a
2 caregiver for a good faith decision to employ, not employ or
3 terminate employment pursuant to the Caregivers Criminal
4 History Screening Act.

5 L. Failure to comply with the requirements of this
6 section are grounds for the state agency having enforcement
7 authority with respect to the care provider to impose
8 appropriate administrative sanctions and penalties."

9 Section 67. Section 30-51-3 NMSA 1978 (being Laws 1998,
10 Chapter 113, Section 3) is amended to read:

11 "30-51-3. REPORTS FILED WITH THE [~~DEPARTMENT OF PUBLIC~~
12 ~~SAFETY~~] NEW MEXICO STATE POLICE--CRIMINAL PENALTIES.--

13 A. A financial institution in New Mexico that is
14 required to file a report regarding a financial transaction
15 under the provisions of the federal Currency and Foreign
16 Transactions Reporting Act and the [~~regulations~~] rules
17 promulgated pursuant to that act shall file a duplicate of
18 that report with the [~~department of public safety~~] New Mexico
19 state police; provided, a financial institution that makes a
20 timely filing with an appropriate federal agency shall be
21 deemed to have satisfied the reporting requirements of this
22 subsection.

23 B. A person engaged in a trade or business in New
24 Mexico who, in the course of the trade or business, receives
25 more than ten thousand dollars (\$10,000) in cash in one
financial transaction or two or more related financial
transactions, and is required to file a report under the
provisions of 26 U.S.C. Section 6050I and [~~regulations~~] rules

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1 promulgated pursuant to that section, shall file a duplicate
2 of that report with the [~~department of public safety~~] New
3 Mexico state police; provided, a person who makes a timely
4 filing with an appropriate federal agency shall be deemed to
5 have satisfied the reporting requirements of this subsection.

6 C. A financial institution, a person engaged in a
7 trade or business or an officer, employee or agent of either
8 who files or keeps a record pursuant to the provisions of
9 this section or who communicates or discloses information or
10 records pursuant to the provisions of this section shall not
11 be liable to its customer or to any person for any loss or
12 damage caused in whole or in part by the making, filing or
13 governmental use of the report or information contained in
14 the report.

15 D. Any person who releases information received
16 pursuant to the provisions of this section, except in the
17 proper discharge of his official duties, is guilty of a
18 misdemeanor.

19 E. A person who knowingly:
20 (1) fails to file a report with the
21 [~~department of public safety~~] New Mexico state police
22 required pursuant to the provisions of this section is
23 subject to a fine of not more than ten percent of the value
24 of the financial transaction required to be reported or five
25 thousand dollars (\$5,000), whichever is greater; or

(2) provides any false or inaccurate
information or knowingly conceals any material fact in a
report required pursuant to Subsections A and B of this

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1 section is guilty of a fourth degree felony.

2 F. Notwithstanding any other provision of law, a
3 violation of this section constitutes a separate, punishable
4 offense for each transaction or exemption.

5 G. Any report, record, information, analysis or
6 request obtained by the [~~department of public safety~~] New
7 Mexico state police or other agency pursuant to the
8 provisions of this section is not a public record as defined
9 in Section 14-3-2 NMSA 1978 and is not subject to disclosure
10 pursuant to the provisions of Section 14-2-1 NMSA 1978.

11 H. A financial institution or person required to
12 file a report pursuant to the provisions of Subsection A or B
13 of this section shall, at the request of the [~~department of~~
14 ~~public safety~~] New Mexico state police, provide the
15 department with access to a copy of the report during the
16 period of time that the financial institution or person is
17 required to maintain the report."

18 Section 68. Section 32A-2-3 NMSA 1978 (being Laws 1993,
19 Chapter 77, Section 32, as amended) is amended to read:

20 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

21 A. "delinquent act" means an act committed by a
22 child that would be designated as a crime under the law if
23 committed by an adult, including the following offenses:

24 (1) pursuant to municipal traffic codes or
25 the Motor Vehicle Code:

(a) any driving while under the
influence of intoxicating liquor or drugs;

(b) any failure to stop in the event of

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1 an accident causing death, personal injury or damage to
2 property;

3 (c) any unlawful taking of a vehicle or
4 motor vehicle;

5 (d) any receiving or transferring of a
6 stolen vehicle or motor vehicle;

7 (e) any homicide by vehicle;

8 (f) any injuring or tampering with a
9 vehicle;

10 (g) any altering or changing of an
11 engine number or other vehicle identification numbers;

12 (h) any altering or forging of a
13 driver's license or permit or any making of a fictitious
14 license or permit;

15 (i) reckless driving;

16 (j) driving with a suspended or revoked
17 license; or

18 (k) any offense punishable as a felony;

19 (2) buying, attempting to buy, receiving,
20 possessing or being served any alcoholic liquor or being
21 present in a licensed liquor establishment, other than a
22 restaurant or a licensed retail liquor establishment, except
23 in the presence of the child's parent, guardian, custodian or
24 adult spouse. As used in this paragraph, "restaurant" means
25 any establishment where meals are prepared and served
primarily for on-premises consumption and that has a dining
room, a kitchen and the employees necessary for preparing,
cooking and serving meals. "Restaurant" does not include

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1 establishments, as defined in [~~regulations~~] rules promulgated
2 by the director of the special investigations division of the
3 [~~department of public safety~~] New Mexico state police, that
4 serve only hamburgers, sandwiches, salads and other fast
5 foods;

6 (3) any felony violation of the provisions
7 of Sections 17-1-1 through 17-5-9 NMSA 1978 or any
8 [~~regulations~~] rules adopted by the state game commission that
9 relate to the time, extent, means or manner that game
10 animals, birds or fish may be hunted, taken, captured,
11 killed, possessed, sold, purchased or shipped and for which a
12 fine may be imposed or a civil damage awarded;

13 (4) any violation of Section 30-29-2 NMSA
14 1978, regarding the illegal use of a glue, aerosol spray
15 product or other chemical substance;

16 (5) any violation of the Controlled
17 Substances Act;

18 (6) escape from the custody of a law
19 enforcement officer or a juvenile probation or parole officer
20 or from any placement made by the department by a child who
21 has been adjudicated a delinquent child; or

22 (7) any violation of Section 30-15-1.1 NMSA
23 1978 regarding unauthorized graffiti on personal or real
24 property;

25 B. "delinquent child" means a child who has
committed a delinquent act;

C. "delinquent offender" means a delinquent child
who is subject to juvenile sanctions only and who is not a

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1 youthful offender or a serious youthful offender;

2 D. "detention facility" means a place where a
3 child may be detained under the Children's Code pending court
4 hearing and does not include a facility for the care and
5 rehabilitation of an adjudicated delinquent child;

6 E. "felony" means an act that would be a felony if
7 committed by an adult;

8 F. "misdemeanor" means an act that would be a
9 misdemeanor or petty misdemeanor if committed by an adult;

10 G. "restitution" means financial reimbursement by
11 the child to the victim or community service imposed by the
12 court and is limited to easily ascertainable damages for
13 injury to or loss of property, actual expenses incurred for
14 medical, psychiatric and psychological treatment for injury
15 to a person and lost wages resulting from physical injury,
16 which are a direct and proximate result of a delinquent act.
17 "Restitution" does not include reimbursement for damages for
18 mental anguish, pain and suffering or other intangible
19 losses. As used in this subsection, "victim" means any
20 person who is injured or suffers damage of any kind by an act
21 that is the subject of a complaint or referral to law
22 enforcement officers or juvenile probation authorities.
23 Nothing contained in this definition limits or replaces the
24 provisions of Subsections A and B of Section 32A-2-27 NMSA
25 1978;

H. "serious youthful offender" means an individual
fifteen to eighteen years of age who is charged with and
indicted or bound over for trial for first degree murder. A

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1 "serious youthful offender" is not a delinquent child as
2 defined pursuant to the provisions of this section; and

3 I. "youthful offender" means a delinquent child
4 subject to adult or juvenile sanctions who is:

5 (1) fourteen to eighteen years of age at the
6 time of the offense and who is adjudicated for at least one
7 of the following offenses:

8 (a) second degree murder, as provided
9 in Section 30-2-1 NMSA 1978;

10 (b) assault with intent to commit a
11 violent felony, as provided in Section 30-3-3 NMSA 1978;

12 (c) kidnapping, as provided in Section
13 30-4-1 NMSA 1978;

14 (d) aggravated battery, as provided in
15 Subsection C of Section 30-3-5 NMSA 1978;

16 (e) aggravated battery upon a peace
17 officer, as provided in Subsection C of Section 30-22-25 NMSA
18 1978;

19 (f) shooting at a dwelling or occupied
20 building or shooting at or from a motor vehicle, as provided
21 in Section 30-3-8 NMSA 1978;

22 (g) dangerous use of explosives, as
23 provided in Section 30-7-5 NMSA 1978;

24 (h) criminal sexual penetration, as
25 provided in Section 30-9-11 NMSA 1978;

(i) robbery, as provided in Section
30-16-2 NMSA 1978;

(j) aggravated burglary, as provided in

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1 Section 30-16-4 NMSA 1978;

2 (k) aggravated arson, as provided in
3 Section 30-17-6 NMSA 1978; or

4 (l) abuse of a child that results in
5 great bodily harm or death to the child, as provided in
6 Section 30-6-1 NMSA 1978;

7 (2) fourteen to eighteen years of age at the
8 time of the offense and adjudicated for any felony offense
9 and who has had three prior, separate felony adjudications
10 within a three-year time period immediately preceding the
11 instant offense. The felony adjudications relied upon as
12 prior adjudications shall not have arisen out of the same
13 transaction or occurrence or series of events related in time
14 and location. Successful completion of consent decrees are
15 not considered a prior adjudication for the purposes of this
16 paragraph; or

17 (3) fourteen years of age and adjudicated
18 for first degree murder, as provided in Section 30-2-1 NMSA
19 1978."

20 Section 69. Section 32A-15-3 NMSA 1978 (being Laws
21 1985, Chapter 103, Section 3 and also by Laws 1985, Chapter
22 140, Section 3, as amended) is amended to read:

23 "32A-15-3. CRIMINAL RECORDS CHECK--BACKGROUND CHECKS.--

24 A. Nationwide criminal record checks shall be
25 conducted of all operators, staff and employees and
prospective operators, staff and employees of child-care
facilities, including every facility or program having
primary custody of children for twenty hours or more per

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1 week, juvenile detention, correction or treatment facilities,
2 with the objective of protecting the children involved and
3 promoting the children's safety and welfare while receiving
4 service through such facilities or ~~[program]~~ programs.

5 B. The department shall conduct a background check
6 of all operators, staff and employees and prospective
7 operators, staff and employees of child-care facilities by
8 submitting a fingerprint card for those ~~[individuals]~~ persons
9 to the ~~[department of public safety]~~ New Mexico state police
10 and the federal bureau of investigation."

11 Section 70. Section 34-2-9 NMSA 1978 (being Laws 1997,
12 Chapter 198, Section 1) is amended to read:

13 "34-2-9. APPLICANTS FOR LICENSE TO PRACTICE LAW--
14 CRIMINAL HISTORY INFORMATION.--

15 A. The supreme court shall require a background
16 investigation of each applicant for admission to the state
17 bar of New Mexico by means of fingerprint checks by the
18 ~~[department of public safety]~~ New Mexico state police and the
19 federal bureau of investigation.

20 B. The director of the administrative office of
21 the courts shall obtain from the ~~[department of public~~
22 ~~safety]~~ New Mexico state police and the federal bureau of
23 investigation, at the expense of an applicant for a license
24 to practice law in ~~[the state of]~~ New Mexico, criminal
25 history information concerning each applicant, using the
applicant's fingerprints or other identifying information.
The information shall be used only by the supreme court and
the board of bar examiners in determining whether to grant

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1 the application and shall not be disseminated to any other
2 person or agency. The information shall be destroyed after
3 the application is granted or denied."

4 Section 71. Section 59A-16C-4 NMSA 1978 (being Laws
5 1998, Chapter 115, Section 4) is amended to read:

6 "59A-16C-4. SUPERINTENDENT'S DUTIES.--The
7 superintendent shall:

8 A. initiate inquiries and conduct investigations
9 when the superintendent has reason to believe that insurance
10 fraud may have been or is being committed;

11 B. respond to notifications or complaints of
12 suspected insurance fraud generated by state and local police
13 or other law enforcement authorities and governmental units,
14 including the federal government and any other person;

15 C. review notices and reports of insurance fraud
16 submitted by authorized insurers, their employees, agents or
17 producers and select those incidents of alleged fraud that,
18 in his judgment, require further investigation and conduct
19 the investigations;

20 D. conduct independent investigations and
21 examinations of insurance transactions and alleged insurance
22 fraud, conduct studies to determine the extent of insurance
23 fraud, deceit or intentional misrepresentation of any kind in
24 the insurance process and publish information and reports on
25 [its] his examinations and studies;

E. report incidents of alleged insurance fraud
supported by investigations and examinations to the
appropriate district attorney and any other appropriate law

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1 enforcement, administrative, regulatory or licensing agency
2 and assemble evidence, prepare charges and otherwise assist
3 any prosecutorial authority having jurisdiction over
4 insurance fraud enforcement;

5 F. assist any official or agency of this state,
6 any other state or the federal government that requests
7 assistance in investigating insurance fraud;

8 G. maintain records and information in order to
9 produce an annual report of his activities undertaken in
10 connection with carrying out the provisions of the Insurance
11 Fraud Act; and

12 H. conduct, in cooperation with the attorney
13 general and the [~~department of public safety~~] New Mexico
14 state police, public outreach and awareness programs on the
15 costs of insurance fraud to the public and how members of the
16 public can assist themselves, the superintendent and law
17 enforcement officials in preventing and prosecuting insurance
18 fraud."

19 Section 72. Section 60-2B-4 NMSA 1978 (being Laws 1981,
20 Chapter 259, Section 4, as amended) is amended to read:

21 "60-2B-4. LICENSING AUTHORITY--POWERS--DUTIES--
22 HEARINGS--APPEALS.--

23 A. The regulation and licensing department is
24 designated as the "licensing authority" of the Bingo and
25 Raffle Act. The superintendent of regulation and licensing
is the executive in charge of enforcement of the terms and
provisions of that act and, as the state licensing authority,
has the powers and duties as follows:

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(1) to grant or refuse licenses under the Bingo and Raffle Act. In addition, the licensing authority has the power, on its own motion based on reasonable grounds or on complaint made and after investigation by the special investigations division of the ~~[department of public safety]~~ New Mexico state police, and public hearing at which the licensee shall be afforded an opportunity to be heard, to assess administrative fines to the licensee and to suspend or revoke any license issued by the licensing authority for any violation by the licensee or any officer, director, agent, member or employee of the licensee of the provisions of that act or any rule ~~[or regulation]~~ authorized under that act. Notice of suspension or revocation, as well as notice of the hearing, shall be given by certified mail to the licensee at the address contained in the license. Any license may be temporarily suspended for a period not to exceed thirty days pending any prosecution, investigation or public hearing;

(2) to supervise the administration of the Bingo and Raffle Act and to adopt, amend and repeal rules ~~[and regulations]~~ governing the holding, operating and conducting of games of chance, the rental of premises and the purchase of equipment to the end that games of chance shall be held, operated and conducted only by licensees for the purposes and in conformity with the constitution of New Mexico and the provisions of that act;

(3) to hear and determine at public hearings all complaints against any licensee and to administer oaths and issue subpoenas to require the presence of persons and

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1 production of papers, books and records necessary to the
2 determination of any hearing held;

3 (4) to keep records of all actions and
4 transactions of the licensing authority;

5 (5) to prepare and transmit annually, in the
6 form and manner prescribed by the licensing authority
7 pursuant to the provisions of law, a report accounting to the
8 governor and the legislature for the efficient discharge of
9 all responsibilities assigned by law or directive to the
10 licensing authority; and

11 (6) to issue publications of the licensing
12 authority intended for circulation in quantity outside the
13 executive branch in accordance with fiscal rules promulgated
14 by the licensing authority.

15 B. Proceedings brought against a licensee for a
16 violation of the Bingo and Raffle Act shall be brought by the
17 licensing authority by serving, in the manner provided in the
18 rules of civil procedure, a complaint upon the licensee and
19 notifying the licensee of the place and date, not less than
20 twenty days after the date of service, at which a hearing
21 shall be held. The complaint shall set forth, in the manner
22 of complaints in civil action, the violations of the Bingo
23 and Raffle Act or the rules ~~[and regulations]~~ of the
24 licensing authority that the licensing authority alleges the
25 licensee has committed. The licensing authority or the
~~[department of public safety]~~ New Mexico state police may
stop the operation of a game of chance pending hearing, in
which case the hearing shall be held within ten days after

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1 notice.

2 C. The licensing authority shall cause the notice
3 of hearing to be served personally upon an officer of the
4 licensee or the member in charge of the conduct of the game
5 of chance or to be sent by registered or certified mail to
6 the licensee at the address shown in the license.

7 D. When proceedings are brought against a licensee
8 for a violation of the Bingo and Raffle Act, the licensing
9 authority shall hear the matter and make written findings in
10 support of its decision. The licensee shall be informed
11 immediately of the decision and, in the event of a suspension
12 or revocation, the effective date of the suspension or
13 revocation.

14 E. For the first violation by a licensee of the
15 Bingo and Raffle Act, the licensing authority may assess an
16 administrative fine of not to exceed one thousand dollars
17 (\$1,000). For a second or subsequent violation by the
18 licensee of that act, the licensing authority may assess an
19 administrative fine of not to exceed two thousand five
20 hundred dollars (\$2,500). The amount of the administrative
21 fine shall be determined by the severity and nature of the
22 violation of the Bingo and Raffle Act and by the number of
23 prior violations of that act.

24 F. When a license is ordered suspended or revoked,
25 the licensee shall surrender the license to the licensing
authority on or before the effective date of the suspension
or revocation. No license is valid beyond the effective date
of the suspension or revocation, whether surrendered or not.

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G. Upon the finding of a violation of the Bingo and Raffle Act or the rules [~~and regulations, or both~~] that would warrant the suspension or revocation of a license, the licensing authority, in addition to any other penalties that may be imposed, may declare the violator ineligible to conduct a game of chance and to apply for a license under that act for a period not exceeding twelve months. The declaration of ineligibility may be extended to include, in addition to the violator, any of its subsidiary organizations, its parent organization or an organization otherwise affiliated with the violator when in the opinion of the licensing authority the circumstances of the violation warrant that action.

H. Upon receipt by a licensee of a complaint signed by the licensing authority and notice of a hearing, the licensee shall answer, in the manner of civil actions, the complaint and inform the licensing authority whether oral argument is desired and whether the licensee desires to produce witnesses.

I. At the request of any party and for good cause shown, the licensing authority or the [~~department of public safety~~] New Mexico state police shall issue subpoenas for the attendance of witnesses and the production of books, records and other documents, but in no case shall a subpoena be made returnable more than five days after service.

J. Whenever oral testimony of witnesses is taken at the hearing, the licensing authority or the [~~department of public safety~~] New Mexico state police shall have a certified

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1 reporter present to prepare a record of the proceedings. The
2 original transcript shall be filed with the licensing
3 authority. Any party is entitled to secure a copy from the
4 reporter at his own expense.

5 K. Hearings may be convened by the licensing
6 authority from time to time at the request of any party, but
7 only for good cause shown. Hearings shall be held and
8 concluded with reasonable dispatch and without unnecessary
9 delay. The licensing authority shall decide any matter
10 within thirty days of the hearing.

11 L. Upon the determination of any matter heard, the
12 licensing authority shall state its findings. All parties
13 shall be notified by the licensing authority of the action of
14 the licensing authority and shall be furnished a copy of the
15 findings.

16 M. Applicants for a license or the licensee may be
17 represented by counsel.

18 N. Any person appearing before the licensing
19 authority in a representative capacity shall be required to
20 show his authority to act in that capacity.

21 O. No person shall be excused from testifying or
22 producing any book or document in any investigation or
23 hearing when ordered to do so by the licensing authority upon
24 the ground that testimony or documentary evidence required of
25 him may tend to incriminate or subject him to penalty or
forfeiture, but no person may be prosecuted, punished or
subjected to any penalty or forfeiture on account of any
matter or thing concerning which he, under oath, testified or

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1 produced documentary evidence, except that he shall not be
2 exempt from prosecution or punishment for any perjury
3 committed by him in his testimony.

4 P. If a person subpoenaed to attend in any
5 investigation or hearing fails to obey the command of the
6 subpoena without reasonable cause or if a person in
7 attendance in any investigation or hearing refuses, without
8 lawful cause, to be examined or to answer a legal or
9 pertinent question or to exhibit any book, account, record or
10 other document when ordered to do so by the representative of
11 the licensing authority holding the hearing or by the
12 ~~[department of public safety]~~ New Mexico state police
13 performing the investigation, the licensing authority or the
14 ~~[department of public safety]~~ New Mexico state police may
15 apply to any judge of the district court, upon proof by
16 affidavit of the facts, for an order returnable in not less
17 than five nor more than ten days directing the person to show
18 cause before the judge why he should not comply with the
19 subpoena or order.

20 Q. Upon return of the order, the judge before whom
21 the matter comes for hearing shall examine the person under
22 oath. If the judge determines after giving the person an
23 opportunity to be heard that he refused without lawful excuse
24 to comply with the subpoena or the order of the licensing
25 authority or the ~~[department of public safety]~~ New Mexico
state police holding the investigation, the judge may order
the person to comply with the subpoena or order forthwith,
and any failure to obey the order of the judge may be

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1 punished as a contempt of the district court.

2 R. Every witness is entitled to be paid for
3 attendance or attendance and travel by the party on whose
4 behalf he is subpoenaed, at the rates prescribed by law,
5 before being required to testify.

6 S. The decision of the licensing authority in
7 suspending or revoking any license under the Bingo and Raffle
8 Act shall be subject to review. A licensee aggrieved by a
9 decision of the licensing board may appeal to the district
10 court pursuant to the provisions of Section 39-3-1.1 NMSA
11 1978.

12 T. No proceeding to vacate, reverse or modify any
13 final order rendered by the licensing authority shall operate
14 to stay the execution or effect of any final order unless the
15 district court, on application and three days' notice to the
16 licensing authority, allows the stay. In the event a stay is
17 ordered, the petitioner shall be required to execute his bond
18 in a sum the court may prescribe, with sufficient surety to
19 be approved by the judge or clerk of the court, which bond
20 shall be conditioned upon the faithful performance by the
21 petitioner of his obligation as a licensee and upon the
22 prompt payment of all damages arising from or caused by the
23 delay in the taking effect or enforcement of the order
24 complained of and for all costs that may be assessed or
25 required to be paid in connection with the proceedings."

Section 73. Section 60-2E-5 NMSA 1978 (being Laws 1997,
Chapter 190, Section 7) is amended to read:

"60-2E-5. GAMING CONTROL BOARD CREATED.--

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A. The "gaming control board" is created and consists of five members. Three members are appointed by the governor with the advice and consent of the senate, and two members are ex officio: the chairman of the state racing commission and the chairman of the board of the New Mexico lottery authority. All members of the board shall be residents of New Mexico and citizens of the United States. One appointed member of the board shall have a minimum of five years of previous employment in a supervisory and administrative position in a law enforcement agency; one appointed member of the board shall be a certified public accountant in New Mexico who has had at least five years of experience in public accountancy; and one appointed member of the board shall be an attorney who has been admitted to practice before the supreme court of New Mexico.

B. The appointed members of the board shall be appointed for terms of five years, except, of the members who are first appointed, the member with law enforcement experience shall be appointed for a term of five years; the member who is a certified public accountant shall be appointed for a term of four years; and the member who is an attorney shall be appointed for a term of three years. Thereafter, all members shall be appointed for terms of five years. No person shall serve as a board member for more than two consecutive terms or ten years total.

C. No person appointed to the board may be employed in any other capacity or shall in any manner receive compensation for services rendered to any person or entity

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1 other than the board while a member of the board.

2 D. A vacancy on the board of an appointed member
3 shall be filled within thirty days by the governor with the
4 advice and consent of the senate for the unexpired portion of
5 the term in which the vacancy occurs. A person appointed to
6 fill a vacancy shall meet all qualification requirements of
7 the office established in this section.

8 E. The governor shall choose a chairman annually
9 from the board's appointed membership.

10 F. No more than three members of the board shall
11 be from the same political party.

12 G. The appointed members of the board shall be
13 full-time state officials and shall receive a salary set by
14 the governor.

15 H. The [~~department of public safety~~] New Mexico
16 state police shall conduct background investigations of all
17 members of the board prior to confirmation by the senate. To
18 assist the [~~department~~] New Mexico state police in the
19 background investigation, a prospective board member shall
20 furnish a disclosure statement to the [~~department~~] New Mexico
21 state police on a form provided by the [~~department~~] New
22 Mexico state police containing that information deemed by the
23 [~~department~~] New Mexico state police as necessary for
24 completion of a detailed and thorough background
25 investigation. The required information shall include at
least:

- (1) a full set of fingerprints made by a law enforcement agency on forms supplied by the [~~department~~] New

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1 Mexico state police;

2 (2) complete information and details with
3 respect to the prospective board member's antecedents,
4 habits, immediate family, character, criminal record,
5 business activities, financial affairs and business
6 associates covering at least a ten-year period immediately
7 preceding the date of submitting the disclosure statement;

8 (3) complete disclosure of any equity
9 interest held by the prospective board member or a member of
10 his immediate family in a company that is an applicant or
11 licensee or an affiliate, affiliated company, intermediary
12 company or holding company in respect to an applicant or
13 licensee; and

14 (4) the names and addresses of members of
15 the immediate family of the prospective board member.

16 I. No person may be appointed or confirmed as a
17 member of the board if that person or member of his immediate
18 family holds an equity interest in a company that is an
19 applicant or licensee or an affiliate, affiliated company,
20 intermediary company or holding company in respect to an
21 applicant or licensee.

22 J. A prospective board member shall provide
23 assistance and information requested by the [~~department of~~
24 ~~public safety~~] New Mexico state police or the governor and
25 shall cooperate in any inquiry or investigation of the
prospective board member's fitness or qualifications to hold
the office to which he is appointed. The senate shall not
confirm a prospective board member if it has reasonable cause

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1 to believe that the prospective board member has:

2 (1) knowingly misrepresented or omitted a
3 material fact required in a disclosure statement;

4 (2) been convicted of a felony, a gaming
5 related offense or a crime involving fraud, theft or moral
6 turpitude within ten years immediately preceding the date of
7 submitting a disclosure statement required pursuant to the
8 provisions of Subsection H of this section;

9 (3) exhibited a history of willful disregard
10 for the gaming laws of this or any other state or the United
11 States; or

12 (4) had a permit or license issued pursuant
13 to the gaming laws of this or any other state or the United
14 States permanently suspended or revoked for cause.

15 K. At the time of taking office, each board member
16 shall file with the secretary of state a sworn statement that
17 he is not disqualified under the provisions of Subsection I
18 of this section."

19 Section 74. Section 60-2E-11 NMSA 1978 (being Laws
20 1997, Chapter 190, Section 13) is amended to read:

21 "60-2E-11. INVESTIGATION OF EXECUTIVE DIRECTOR
22 CANDIDATES AND EMPLOYEES.--

23 A. A person who is under consideration in the
24 final selection process for appointment as the executive
25 director shall file a disclosure statement pursuant to the
requirements of this section, and the board shall not make an
appointment of a person as executive director until a
background investigation is completed by the ~~[department of~~

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1 ~~public safety]~~ New Mexico state police and a report is made
2 to the board.

3 B. A person who has reached the final selection
4 process for employment by the executive director shall file a
5 disclosure statement pursuant to the requirements of this
6 section if the executive director or the board has directed
7 the person do so. The person shall not be further considered
8 for employment until a background investigation is completed
9 by the ~~[department of public safety]~~ New Mexico state police
10 and a report is made to the executive director.

11 C. Forms for the disclosure statements required by
12 this section shall be developed by the board in cooperation
13 with the ~~[department of public safety]~~ New Mexico state
14 police. At least the following information shall be required
15 of a person submitting a statement:

16 (1) a full set of fingerprints made by a law
17 enforcement agency on forms supplied by the board;

18 (2) complete information and details with
19 respect to the person's antecedents, habits, immediate
20 family, character, criminal record, business activities and
21 business associates, covering at least a ten-year period
22 immediately preceding the date of submitting the disclosure
23 statement; and

24 (3) a complete description of any equity
25 interest held in a business connected with the gaming
industry.

D. In preparing an investigative report, the
~~[department of public safety]~~ New Mexico state police may

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1 request and receive criminal history information from the
2 federal bureau of investigation or any other law enforcement
3 agency or organization. The ~~[department of public safety]~~
4 New Mexico state police shall maintain confidentiality
5 regarding information received from a law enforcement agency
6 that may be imposed by the agency as a condition for
7 providing the information to the ~~[department]~~ New Mexico
8 state police.

9 E. A person required to file a disclosure
10 statement shall provide any assistance or information
11 requested by the ~~[department of public safety]~~ New Mexico
12 state police or the board and shall cooperate in any inquiry
13 or investigation.

14 F. If information required to be included in a
15 disclosure statement changes or if information is added after
16 the statement is filed, the person required to file it shall
17 provide that information in writing to the person requesting
18 the investigation. The supplemental information shall be
19 provided within thirty days after the change or addition.

20 G. The board shall not appoint a person as
21 executive director, and the executive director shall not
22 employ a person, if the board or the executive director has
23 reasonable cause to believe that the person has:

24 (1) knowingly misrepresented or omitted a
25 material fact required in a disclosure statement;

(2) been convicted of a felony, a gaming
related offense or a crime involving fraud, theft or moral
turpitude within ten years immediately preceding the date of

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1 submitting a disclosure statement required pursuant to this
2 section;

3 (3) exhibited a history of willful disregard
4 for the gaming laws of this or any other state or the United
5 States; or

6 (4) had a permit or license issued pursuant
7 to the gaming laws of this or any other state or the United
8 States permanently suspended or revoked for cause.

9 H. Both the board and the executive director may
10 exercise absolute discretion in exercising their respective
11 appointing and employing powers."

12 Section 75. Section 60-3A-3 NMSA 1978 (being Laws 1981,
13 Chapter 39, Section 3, as amended) is amended to read:

14 "60-3A-3. DEFINITIONS.--As used in the Liquor Control
15 Act:

16 A. "alcoholic beverages" means distilled or
17 rectified spirits, potable alcohol, brandy, whiskey, rum, gin
18 and aromatic bitters bearing the federal internal revenue
19 strip stamps or any similar alcoholic beverage, including
20 blended or fermented beverages, dilutions or mixtures of one
21 or more of the foregoing containing more than one-half of one
22 percent alcohol, but excluding medicinal bitters;

23 B. "beer" means [~~any~~] an alcoholic beverage
24 obtained by the fermentation of any infusion or decoction of
25 barley, malt and hops or other cereals in water, and includes
porter, beer, ale and stout;

C. "brewer" means [~~any~~] a person who owns or
operates a business for the manufacture of beer;

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D. "club" means:

(1) any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state with a membership of not less than fifty members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds:

(a) is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes; and

(b) the proposed licensee has been granted an exemption by the United States from the payment of the federal income tax as a club under the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended or, if the applicant has not operated as a club for a sufficient time to be eligible for the income tax exemption, it must execute and file with the director a sworn letter of intent declaring that it will, in good faith, apply for such exemption as soon as it is eligible; or

(2) an airline passenger membership club operated by an air common carrier [~~which~~] that maintains or operates a clubroom at an international airport terminal. For the purposes of this paragraph, "air common carrier" means a person engaged in regularly scheduled air transportation between fixed termini under a certificate of

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1 public convenience and necessity issued by the civil
2 aeronautics board;

3 E. "commission" means the ~~[secretary of public~~
4 ~~safety]~~ New Mexico state police when the term is used in
5 reference to the enforcement and investigatory provisions of
6 the Liquor Control Act and means the ~~[superintendent of]~~
7 regulation and licensing department when the term is used in
8 reference to the licensing provisions of the Liquor Control
9 Act;

10 F. "department" means the special investigations
11 division of the ~~[department of public safety]~~ New Mexico
12 state police when the term is used in reference to the
13 enforcement and investigatory provisions of the Liquor
14 Control Act and means the ~~[superintendent of]~~ regulation and
15 licensing department when the term is used in reference to
16 the licensing provisions of the Liquor Control Act;

17 G. "director" means the director of the special
18 investigations division of the ~~[department of public safety]~~
19 New Mexico state police when the term is used in reference to
20 the enforcement and investigatory provisions of the Liquor
21 Control Act and means the superintendent of regulation and
22 licensing when the term is used in reference to the licensing
23 provisions of the Liquor Control Act;

24 H. "dispenser" means ~~[any]~~ a person licensed under
25 the provisions of the Liquor Control Act selling, offering
for sale or having in his possession with the intent to sell
alcoholic beverages both by the drink for consumption on the
licensed premises and in unbroken packages for consumption

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1 and not for resale off the licensed premises;

2 I. "distiller" means [~~any~~] a person engaged in
3 manufacturing spirituous liquors;

4 J. "golf course" means a tract of land and
5 facilities used for playing golf and other recreational
6 activities that includes tees, fairways, greens, hazards,
7 putting greens, driving ranges, recreational facilities,
8 patios, pro shops, cart paths and public and private roads
9 that are located within the tract of land;

10 K. "governing body" means the board of county
11 commissioners of a county or the city council or city
12 commissioners of a municipality;

13 L. "hotel" means [~~any~~] an establishment or complex
14 having a resident of New Mexico as a proprietor or manager
15 and where, in consideration of payment, meals and lodging are
16 regularly furnished to the general public. The establishment
17 or complex must maintain for the use of its guests a minimum
18 of twenty-five sleeping rooms;

19 M. "licensed premises" means the contiguous areas
20 or areas connected by indoor passageways of a structure and
21 the outside dining, recreation and lounge areas of the
22 structure that are under the direct control of the licensee
23 and from which the licensee is authorized to sell, serve or
24 allow the consumption of alcoholic beverages under the
25 provisions of its license; provided that in the case of a
restaurant, hotel, golf course or racetrack, "licensed
premises" includes all public and private rooms, facilities
and areas in which alcoholic beverages are sold or served in

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1 the customary operating procedures of the restaurant, hotel,
2 golf course or racetrack;

3 N. "local option district" means ~~[any]~~ a county
4 ~~[which]~~ that has voted to approve the sale, serving or public
5 consumption of alcoholic beverages, or any incorporated
6 municipality ~~[which]~~ that falls within a county ~~[which]~~ that
7 has voted to approve the sale, serving or public consumption
8 of alcoholic beverages, or any incorporated municipality of
9 over five thousand population ~~[which]~~ that has independently
10 voted to approve the sale, serving or public consumption of
11 alcoholic beverages under the terms of the Liquor Control Act
12 or any former act;

13 O. "manufacturer" means a distiller, rectifier,
14 brewer or winer;

15 P. "minor" means ~~[any]~~ a person under twenty-one
16 years of age;

17 Q. "package" means ~~[any]~~ an immediate container of
18 alcoholic beverages ~~[which]~~ that is filled or packed by a
19 manufacturer or wine bottler for sale by the manufacturer or
20 wine bottler to wholesalers;

21 R. "person" means an individual, corporation,
22 firm, partnership, copartnership, association or other legal
23 entity;

24 S. "rectifier" means ~~[any]~~ a person who blends,
25 mixes or distills alcohol with other liquids or substances
for the purpose of making an alcoholic beverage for the
purpose of sale other than to the consumer by the drink, and
includes all bottlers of spirituous liquors;

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1 T. "restaurant" means [~~any~~] an establishment
2 having a New Mexico resident as a proprietor or manager
3 [~~which~~] that is held out to the public as a place where meals
4 are prepared and served primarily for on-premises consumption
5 to the general public in consideration of payment and [~~which~~]
6 that has a dining room, a kitchen and the employees necessary
7 for preparing, cooking and serving meals; provided that
8 "restaurant" does not include establishments as defined in
9 [~~regulations~~] rules promulgated by the director serving only
10 hamburgers, sandwiches, salads and other fast foods;

11 U. "retailer" means [~~any~~] a person licensed under
12 the provisions of the Liquor Control Act selling, offering
13 for sale or having in his possession with the intent to sell
14 [~~any~~] alcoholic beverages in unbroken packages for
15 consumption and not for resale off the licensed premises;

16 V. "spirituous liquors" means alcoholic beverages
17 as defined in Subsection A of this section except fermented
18 beverages such as wine, beer and ale;

19 W. "wholesaler" means [~~any~~] a person whose place
20 of business is located in New Mexico and who sells, offers
21 for sale or possesses for the purpose of sale any alcoholic
22 beverages for resale by the purchaser;

23 X. "wine" includes the words "fruit juices" and
24 means alcoholic beverages obtained by the fermentation of the
25 natural sugar contained in fruit or other agricultural
products, with or without the addition of sugar or other
products, [~~which~~] that do not contain less than one-half of
one percent nor more than twenty-one percent alcohol by

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1 volume;

2 Y. "wine bottler" means [~~any~~] a New Mexico
3 wholesaler who is licensed to sell wine at wholesale for
4 resale only and who buys wine in bulk and bottles it for
5 wholesale resale;

6 Z. "winegrower" means [~~any~~] a person who owns or
7 operates a business for the manufacture of wine; and

8 AA. "winer" means a winegrower."

9 Section 76. Section 60-4B-4.1 NMSA 1978 (being Laws
10 1993, Chapter 329, Section 1) is amended to read:

11 "60-4B-4.1. LOCAL LAW ENFORCEMENT--~~[DEPARTMENT OF~~
12 ~~PUBLIC SAFETY]~~ NEW MEXICO STATE POLICE--REPORTING
13 REQUIREMENTS--AUTHORITY TO REQUEST INVESTIGATIONS.--

14 A. Within thirty days following the date of
15 issuance of a citation pursuant to the provisions of the
16 Liquor Control Act, the [~~department of public safety~~] New
17 Mexico state police or the law enforcement agency of a
18 municipality or county shall report alleged violations of
19 that act to the alcohol and gaming division of the regulation
20 and licensing department.

21 B. The director of the alcohol and gaming division
22 of the regulation and licensing department may request the
23 investigators of the special investigations division of the
24 [~~department of public safety~~] New Mexico state police to
25 investigate licensees or activities that the director has
reasonable cause to believe are in violation of the Liquor
Control Act."

Section 77. Section 60-6C-1 NMSA 1978 (being Laws 1981,

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1 Chapter 39, Section 97, as amended) is amended to read:

2 "60-6C-1. GROUNDS FOR SUSPENSION, REVOCATION OR
3 ADMINISTRATIVE FINE--REPORTING REQUIREMENT.--

4 A. The director may suspend or revoke the license
5 or permit or fine the licensee in an amount not more than ten
6 thousand dollars (\$10,000), or both, when he finds that any
7 licensee has:

8 (1) violated any provision of the Liquor
9 Control Act or any ~~[regulation]~~ rule or order promulgated
10 pursuant to that act;

11 (2) been convicted of a felony pursuant to
12 the provisions of the Criminal Code, the Liquor Control Act
13 or federal law; or

14 (3) permitted his licensed premises to
15 remain a public nuisance in the neighborhood where it is
16 located after written notice from the director that
17 investigation by the department has revealed that the
18 establishment is a public nuisance in the neighborhood.

19 B. The director shall suspend or revoke the
20 license or permit and may fine the licensee in an amount not
21 to exceed ten thousand dollars (\$10,000), or both, when he
22 finds that any licensee or:

23 (1) his employee or agent knowingly has
24 sold, served or given any alcoholic beverage to a minor in
25 violation of Section 60-7B-1 NMSA 1978 or to an intoxicated
person in violation of Section 60-7A-16 NMSA 1978 on two
separate occasions within any twelve-month period; or

(2) his agent has made any material false

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1 statement or concealed any material facts in his application
2 for the license or permit granted him pursuant to the
3 provisions of the Liquor Control Act.

4 C. Any licensee aggrieved by a revocation,
5 suspension or fine proposed to be imposed by the director
6 pursuant to this section shall be entitled to the hearing
7 procedures set forth in Chapter 60, Article 6C NMSA 1978
8 before the revocation, suspension or fine shall be effective.

9 D. Any charge filed against a licensee by the
10 department and the resulting disposition of the charge shall
11 be reported to the [~~department of public safety~~] New Mexico
12 state police and local law enforcement agencies whose
13 jurisdictions include the licensed establishment."

14 Section 78. Section 60-6C-4 NMSA 1978 (being Laws 1981,
15 Chapter 39, Section 100, as amended) is amended to read:

16 "60-6C-4. ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--
17 INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS.--

18 A. Whenever a person lodges a signed, written
19 complaint with the department alleging that a licensee has
20 violated any of the provisions of the Liquor Control Act,
21 unless the complaint is deficient on its face, the director
22 shall request that the [~~department of public safety~~] New
23 Mexico state police investigate the complaint.

24 B. The [~~department of public safety~~] New Mexico
25 state police shall investigate the complaint and make a
written report to the director.

C. If the director believes from the report that
probable cause exists for filing charges against the licensee

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1 for the revocation or suspension of his license or permit or
2 for fining him, or for both, he or his designee shall file in
3 the department a charge against the licensee in the name of
4 the state, stating the nature of the grounds relied upon for
5 the filing, the approximate date of the alleged violation and
6 the names and addresses of the witnesses who are expected to
7 give testimony or evidence against the licensee.

8 D. After charges have been filed, the director
9 shall issue a signed order for the licensee to appear at a
10 hearing to explain, on the basis of any ground set out in the
11 charge, why the license should not be revoked or suspended or
12 why the licensee should not be fined, or both.

13 E. The director shall keep the original of the
14 charge and the order to show cause on file in his office.

15 F. The director shall appoint a hearing officer no
16 later than ten days prior to the date set for the hearing at
17 which the licensee shall appear to explain why his license
18 should not be revoked or suspended or why the licensee should
19 not be fined, or both.

20 G. The director shall have a copy of the charge
21 and a copy of the order to show cause sent to the licensee or
22 the licensee's resident agent at the agent's last known
23 address by certified mail at least fourteen days before the
24 date set for the hearing on the order to show cause.

25 H. At any hearing on an order to show cause, the
director shall cause a record of hearing to be made, which
shall record:

- (1) the style of the proceedings;

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1 (2) the nature of the proceedings, including
2 a copy of the charge and a copy of the order to show cause;

3 (3) the place, date and time of the hearing
4 and all continuances or recesses of the hearing;

5 (4) the appearance or nonappearance of the
6 licensee;

7 (5) if the licensee appears with an
8 attorney, the name and address of the attorney;

9 (6) a record of all evidence and testimony
10 and a copy or record of all exhibits introduced in evidence;

11 (7) the findings of fact and law as to
12 whether ~~[or not]~~ the licensee has violated the Liquor Control
13 Act as set out in the charge; and

14 (8) the decision of the director.

15 I. If the licensee fails to appear without good
16 cause at the time and place designated in the order to show
17 cause for the hearing, the director shall order the
18 nonappearance of the licensee to be entered in the record of
19 hearing and shall order the license revoked or suspended or
20 the licensee fined, or both, on all the grounds alleged in
21 the charge and shall cause the record of hearing to show the
22 particulars in detail. In such a case, there shall be no
23 reopening, appeal or review of the proceedings.

24 J. If the licensee admits guilt on all grounds set
25 out in the charge, the director shall order the revocation or
suspension of the license or the licensee fined, or both, and
cause a record of hearing to be made showing the facts and
particulars of his order of revocation or suspension of the

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1 license or fine of the licensee, or both. In such a case,
2 there shall be no review or appeal of the proceedings.

3 K. If the licensee appears at the hearing and does
4 not testify or denies guilt of any ~~[or all]~~ of the grounds
5 set out in the charge, the hearing shall proceed as follows:

6 (1) the director or the hearing officer
7 shall administer oaths to all witnesses, the department shall
8 cause all testimony and evidence in support of the grounds
9 alleged in the charge to be presented in the presence of the
10 licensee and the director shall allow the licensee or his
11 attorney to cross-examine all witnesses;

12 (2) the licensee shall be allowed to present
13 testimony and evidence he may have in denial or in mitigation
14 of the grounds set out in the charge;

15 (3) the department shall have the right to
16 cross-examine the licensee or any witness testifying in his
17 favor;

18 (4) the department shall present any
19 evidence or testimony in rebuttal of that produced by the
20 licensee;

21 (5) the director or the hearing officer
22 shall make a finding on each ground alleged and a finding of
23 the guilt or innocence of the licensee on each ground;

24 (6) if the licensee is found guilty on any
25 ground alleged and proved, the director shall make his order
of revocation or suspension of the license or fine of the
licensee, or both; and

(7) the rules of evidence shall not be

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1 required to be observed, but the order of suspension or
2 revocation or fine, or both, shall be based upon substantial,
3 competent and relevant evidence and testimony appearing in
4 the record of hearing.

5 L. No admission of guilt, admission against
6 interest or transcript of testimony made or given in any
7 hearing pursuant to this section shall be received or used in
8 any criminal proceedings wherein the licensee is a defendant;
9 provided, however, if the licensee commits perjury in a
10 hearing, the evidence shall be admissible in a perjury trial
11 if otherwise competent and relevant.

12 M. The director shall adopt reasonable
13 ~~[regulations]~~ rules setting forth uniform standards of
14 penalties concerning fines and suspensions imposed by the
15 director."

16 Section 79. Section 60-6E-6 NMSA 1978 (being Laws 1999,
17 Chapter 277, Section 7) is amended to read:

18 "60-6E-6. SERVER PERMITS--FAILURE TO PRODUCE PROOF.--

19 A. Every licensee shall maintain on the licensed
20 premises copies of the server permits of the licensee, his
21 lessee, if any, and each server then employed by the licensee
22 or lessee at all times and make copies available to the
23 director and to the agents or employees of the ~~[department of~~
24 ~~public safety]~~ New Mexico state police upon request.

25 B. Failure to produce a copy of a server permit is
prima facie evidence that a server permit has not been issued
and shall subject the licensee to fines and penalties as
determined by rule adopted by the director."

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

6 F. "department", without modification, means the
7 ~~[department of public safety, the secretary of public safety]~~
8 New Mexico state police, the chief of the New Mexico state
9 police or any employee of the ~~[department]~~ New Mexico state
10 police exercising authority lawfully delegated to that
11 employee by the ~~[secretary]~~ chief;

12 G. "director" means the ~~[secretary]~~ director of
13 the division;

14 H. "division" means the motor transportation
15 division of the ~~[department]~~ New Mexico state police;

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

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

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

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

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

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

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

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

P. "person" means any individual, estate, trust,
receiver, cooperative association, club, corporation,

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

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

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

19 S. "secretary" or "chief" means the ~~[secretary of~~
20 ~~public safety]~~ chief of the New Mexico state police and,
21 except for the purposes of 65-1-33 NMSA 1978, also includes
22 ~~[the deputy secretary and any division director]~~ employees
23 delegated by the ~~[secretary]~~ chief;

24 T. "state" or "jurisdiction" means a state,
25 territory or possession of the United States, the District of
Columbia, the commonwealth of Puerto Rico, a foreign country
or a state or province of a foreign country; and

U. "utility trailer" means any trailer,

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

7 Section 81. Section 66-1-4.1 NMSA 1978 (being Laws
8 1990, Chapter 120, Section 2, as amended) is amended to read:

9 "66-1-4.1. DEFINITIONS.--As used in the Motor Vehicle
10 Code:

11 A. "abandoned vehicle" means a vehicle or motor
12 vehicle that has been determined by a New Mexico law
13 enforcement agency:

14 (1) to have been left unattended on either
15 public or private property for at least thirty days;

16 (2) not to have been reported stolen;

17 (3) not to have been claimed by any person
18 asserting ownership; and

19 (4) not to have been shown by normal record
20 checking procedures to be owned by any person;

21 B. "access aisle" means a space designed to allow
22 a person with severe mobility impairment to safely exit and
23 enter a motor vehicle and that is immediately adjacent to a
24 designated disabled parking space and that may be common to
25 two such parking spaces of at least sixty inches in width or,
if the parking space is designed for van accessibility,
ninety-six inches in width, and clearly marked with blue
striping;

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1 C. "additional place of business", for dealers and
2 wreckers of vehicles, means locations in addition to an
3 established place of business as defined in Section 66-1-4.5
4 NMSA 1978 and meeting all the requirements of an established
5 place of business, except Paragraph (5) of Subsection B of
6 Section 66-1-4.5 NMSA 1978, but "additional place of
7 business" does not mean a location used solely for storage
8 and that is not used for wrecking, dismantling, sale or
9 resale of vehicles;

10 D. "alcoholic beverages" means any and all
11 distilled or rectified spirits, potable alcohol, brandy,
12 whiskey, rum, gin, aromatic bitters or any similar alcoholic
13 beverage, including all blended or fermented beverages,
14 dilutions or mixtures of one or more of the foregoing
15 containing more than one-half of one percent alcohol but
16 excluding medicinal bitters; and

17 E. "authorized emergency vehicle" means any fire
18 department vehicle, police vehicle, ambulance and any
19 emergency vehicles of municipal departments or public
20 utilities that are designated or authorized as emergency
21 vehicles by the ~~[director]~~ chief of the New Mexico state
22 police ~~[division of the department of public safety]~~ or local
23 authorities."

24 Section 82. Section 74-4-4.7 NMSA 1978 (being Laws
25 1992, Chapter 43, Section 4) is amended to read:

"74-4-4.7. PERMIT APPLICANT DISCLOSURE.--

A. Every applicant for a permit pursuant to the
Hazardous Waste Act shall file a disclosure statement with

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1 the department with the information required by, and on a
2 form developed by, the department in cooperation with the
3 ~~[department of public safety]~~ New Mexico state police, at the
4 same time the applicant files the application for a permit
5 with the secretary.

6 B. Upon the request of the secretary, the
7 ~~[department of public safety]~~ New Mexico state police shall
8 prepare and transmit to the secretary an investigative report
9 on the applicant based in part upon the disclosure statement.
10 The report shall be prepared and transmitted within ninety
11 days after the receipt of a copy of an applicant's disclosure
12 statement from the department. Upon good cause, the ninety
13 days may be extended for a reasonable period of time by the
14 secretary.

15 C. In preparing the investigative report, the
16 ~~[department of public safety]~~ New Mexico state police may
17 request and receive criminal history information on the
18 applicant from the federal bureau of investigation or any
19 other law enforcement agency or organization. While the
20 investigative report is being prepared by the ~~[department of~~
21 ~~public safety]~~ New Mexico state police, the secretary may
22 also request information regarding any person who will be or
23 could reasonably be expected to be involved in management
24 activities of the hazardous waste facility or any person who
25 has a controlling interest in any permittee. The ~~[department~~
~~of public safety]~~ New Mexico state police shall maintain
confidentiality regarding the information received from a law
enforcement agency as may be imposed by that agency as a

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1 condition for providing that information to the [~~department~~
2 ~~of public safety~~] New Mexico state police.

3 D. All persons required to file a disclosure shall
4 provide any assistance or information requested by the
5 [~~department of public safety~~] New Mexico state police or the
6 secretary and shall cooperate in any inquiry or investigation
7 conducted by the [~~department of public safety~~] New Mexico
8 state police or any inquiry, investigation or hearing
9 conducted by the secretary. Nothing in this section shall be
10 construed to waive a person's constitutional right against
11 self-incrimination.

12 E. If any of the information required to be
13 included in the disclosure statement changes or if any
14 information is added after filing the statement, the person
15 required to file it shall provide that information in writing
16 to the secretary within thirty days after the change or
17 addition. Failure to provide the information within thirty
18 days may constitute the basis for the revocation of, or
19 denial of an application for, any permit issued or applied
20 for in accordance with Section 74-4-4.2 NMSA 1978, but only
21 if, prior to any denial or revocation, the secretary notifies
22 the applicant or permittee of the secretary's intention to do
23 so and gives the applicant or permittee fourteen days from
24 the date of the notice to explain why the information was not
25 provided within the required thirty-day period. The
secretary shall consider this information when determining
whether to revoke or deny the permit.

F. No person shall be required to submit the

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1 disclosure statement required by this section if the person
2 is:

3 (1) the United States or any agency or
4 instrumentality of the United States;

5 (2) a state or any agency or political
6 subdivision of a state; or

7 (3) a corporation or an officer, director or
8 shareholder of that corporation and that corporation:

9 (a) has on file and in effect with the
10 federal securities and exchange commission a registration
11 statement required under Section 5, Chapter 38, Title 1 of
12 the federal Securities Act of 1933, as amended;

13 (b) submits to the secretary with the
14 application for a permit evidence of the registration
15 described in Subparagraph (a) of this paragraph and a copy of
16 the corporation's most recent annual form 10-K or an
17 equivalent report; and

18 (c) submits to the secretary on the
19 annual anniversary of the date of the issuance of any permit
20 it holds pursuant to the Hazardous Waste Act evidence of
21 registration described in Subparagraph (a) of this paragraph
22 and a copy of the corporation's most recent annual form 10-K
23 or an equivalent report."

24 Section 83. Section 74-4B-3 NMSA 1978 (being Laws 1983,
25 Chapter 80, Section 3, as amended by Laws 1997, Chapter 152,
Section 1 and also by Laws 1997, Chapter 231, Section 1) is
amended to read:

"74-4B-3. DEFINITIONS.--As used in the Emergency

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Management Act:

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

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

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

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

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

F. "department" means the ~~[department of public safety]~~ New Mexico state police;

G. "emergency management" means the ability to prepare for, respond to, mitigate, recover and restore the scene of an institutional, industrial, transportation or other accident;

H. "first responder" means the first law enforcement officer or other public service provider with a radio-equipped vehicle to arrive at the scene of an accident;

I. "hazardous materials" means hazardous substances, radioactive materials or a combination of hazardous substances and radioactive materials;

J. "hazardous substances" means flammable solids, semisolids, liquids or gases; poisons; corrosives; explosives; compressed gases; reactive or toxic chemicals; irritants; or biological agents, but does not include

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1 radioactive materials;

2 K. "orphan hazardous materials" means hazardous
3 substances, radioactive materials, a combination of hazardous
4 substances and radioactive materials or substances used in
5 the manufacture of controlled substances in violation of the
6 Controlled Substances Act where an owner of the substances or
7 materials cannot be identified;

8 L. "plan" means the statewide hazardous materials
9 emergency response plan;

10 M. "radioactive materials" means any material or
11 combination of materials that spontaneously emits ionizing
12 radiation. Materials in which the estimated specific
13 activity is not greater than 0.002 microcuries per gram of
14 material are not considered to be radioactive materials
15 unless determined to be so by the hazardous and radioactive
16 materials bureau of the water and waste management division
17 of the department of environment for purposes of emergency
18 response pursuant to the Emergency Management Act;

19 N. "responsible state agency" means an agency
20 designated in Subsection D of Section 74-4B-5 NMSA 1978 with
21 responsibility for managing a certain type of accident or
22 performing certain functions at the scene of such accident;

23 O. "secretary" or "chief" means the ~~[secretary of~~
24 ~~public safety]~~ chief of the New Mexico state police; and

25 P. "task force" means the emergency management
task force."

Section 84. Section 74-6-5.1 NMSA 1978 (being Laws
1993, Chapter 291, Section 12) is amended to read:

1 "74-6-5.1. DISCLOSURE STATEMENTS.--

2 A. The commission by [~~regulation~~] rule may require
3 every applicant for a permit to dispose or use septage or
4 sludge, or within a source category designated by the
5 commission, to file with the appropriate constituent agency a
6 disclosure statement. The disclosure statement shall be
7 submitted on a form developed by the commission and the
8 [~~department of public safety~~] New Mexico state police. The
9 commission in cooperation with the [~~department of public~~
10 ~~safety~~] New Mexico state police shall determine the
11 information to be contained in the disclosure statement. The
12 disclosure statement shall be submitted to the constituent
13 agency at the same time that the applicant files an
14 application for a permit pursuant to Section 74-6-5 NMSA
15 1978. The commission shall adopt [~~regulations~~] rules
16 designating additional categories of sources subject to the
17 disclosure requirements of this section as it deems
18 appropriate and necessary to carry out the purposes of this
19 section.

20 B. Upon a request by the constituent agency, the
21 [~~department of public safety~~] New Mexico state police shall
22 prepare and transmit to the constituent agency an
23 investigative report on the applicant within ninety days
24 after the [~~department of public safety~~] New Mexico state
25 police receives an administratively complete disclosure
statement prepared by the applicant for a permit. The
investigative report shall be based in part upon the
disclosure statement. The ninety-day deadline for preparing

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1 the investigative report may be extended by the constituent
2 agency for a reasonable period of time for good cause. The
3 ~~[department of public safety]~~ New Mexico state police in
4 preparing the investigative report may request and receive
5 criminal history information from any other law enforcement
6 agency or organization. The constituent agency may also
7 request information regarding a person who will be or could
8 reasonably be expected to be involved in management
9 activities of the permitted facility or a person who has a
10 controlling interest in a permitted facility. The
11 information received from a law enforcement agency shall be
12 kept confidential by the ~~[department of public safety]~~ New
13 Mexico state police to the extent that confidentiality is
14 imposed by the law enforcement agency as a condition for
15 providing the information to the constituent agency or the
16 commission.

17 C. All persons required to file a disclosure
18 statement shall provide any assistance or information
19 requested by the constituent agency or the ~~[department of~~
20 ~~public safety]~~ New Mexico state police and shall cooperate in
21 any inquiry or investigation conducted by the ~~[department of~~
22 ~~public safety]~~ New Mexico state police. If a person required
23 to file a disclosure statement refuses to comply with a
24 formal request to answer an inquiry or produce information,
25 evidence or testimony, the application of the applicant or
the permit of the permittee shall be denied or terminated by
the constituent agency.

D. If the information required to be included in

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1 the disclosure statement changes or if additional information
2 should be added after the filing of the disclosure statement,
3 the person required to file the disclosure statement shall
4 provide the information to the constituent agency in writing
5 within thirty days after the change or addition. Failure to
6 provide the information within thirty days shall constitute
7 the basis for the termination of a permit or denial of an
8 application for a permit. Prior to terminating a permit or
9 denying an application for a permit, the constituent agency
10 shall notify the permittee or applicant of the constituent
11 agency's intent to terminate a permit or deny an application
12 and the constituent agency shall give the permittee or
13 applicant fourteen days from the date of notice to
14 satisfactorily explain why the information was not provided
15 within the thirty-day period. The constituent agency shall
16 consider the explanation of the permittee or applicant when
17 determining whether to terminate the permit or deny the
18 application for a permit.

19 E. No person shall be required to submit the
20 disclosure statement required by this section if:

21 (1) the application is for a facility owned
22 and operated by the state, a political subdivision of the
23 state or an agency of the federal government or for the
24 permitted disposal or use of septage or sludge on the
25 premises where the sludge or septage is generated;

(2) the person has submitted a disclosure
statement pursuant to this section within the previous year
and no changes have occurred that would require disclosure

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1 ~~[under]~~ as provided in Subsection D of this section; or

2 (3) the person is a corporation or an
3 officer, director or shareholder of that corporation and that
4 corporation:

5 (a) has on file and in effect with the
6 federal securities and exchange commission a registration
7 statement required by Section 5, Chapter 38, Title 1 of the
8 Securities Act of 1933, as amended;

9 (b) submits to the constituent agency
10 with the application for a permit evidence of the
11 registration described in Subparagraph (a) of this
12 ~~[subsection]~~ paragraph and a copy of the corporation's most
13 recent annual form 10-K or an equivalent report; and

14 (c) submits to the constituent agency
15 on the anniversary date of the issuance of the permit
16 evidence of registration described in Subparagraph (a) of
17 this ~~[subsection]~~ paragraph and a copy of the corporation's
18 most recent annual form 10-K or an equivalent report.

19 F. Permit decisions made pursuant to this section
20 shall be subject to the procedures established in Section
21 74-6-5 NMSA 1978, including notice and appeals."

22 Section 85. Section 74-9-21 NMSA 1978 (being Laws 1990,
23 Chapter 99, Section 21) is amended to read:

24 "74-9-21. PERMIT APPLICANT DISCLOSURE.--

25 A. Every applicant for a permit shall file a
disclosure statement with the information required by and on
a form developed by the division in cooperation with the
~~[department of public safety]~~ New Mexico state police at the

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1 same time he files his application for a permit with the
2 director.

3 B. Upon request of the director, the [~~department~~
4 ~~of public safety~~] New Mexico state police shall, within
5 ninety days after receipt of the disclosure statement from an
6 applicant for a permit, prepare and transmit to the director
7 an investigative report on the applicant, based in part upon
8 the disclosure statement, except that this deadline may be
9 extended for a reasonable period of time, for good cause, by
10 the director. In preparing this report, the [~~department of~~
11 ~~public safety~~] New Mexico state police may request and
12 receive criminal history information from the federal bureau
13 of investigation and any other law enforcement agency or
14 organization. The director may also request information
15 under this subsection regarding any person who will be or
16 could reasonably be expected to be involved in management
17 activities of the solid waste facility or any person who has
18 a controlling interest in any permittee. The [~~department of~~
19 ~~public safety~~] New Mexico state police shall provide such
20 confidentiality regarding the information received from a law
21 enforcement agency as may be imposed by that agency as a
22 condition for providing that information to the [~~department~~]
23 New Mexico state police.

24 C. All persons required to file a disclosure
25 statement shall provide any assistance or information
requested by the director or the [~~department of public~~
~~safety~~] New Mexico state police and shall cooperate in any
inquiry or investigation conducted by the [~~department~~] New

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1 Mexico state police and any inquiry, investigation or hearing
2 conducted by the director. If, upon issuance of a formal
3 request to answer any inquiry or produce information,
4 evidence or testimony, any person required to file a
5 disclosure statement refuses to comply, the application of an
6 applicant or the permit of a permittee may be denied or
7 revoked by the director.

8 D. If any of the information required to be
9 included in the disclosure statement changes or if any
10 additional information should be added after the filing of
11 the statement, the person required to file it shall provide
12 that information to the director in writing within thirty
13 days after the change or addition. The failure to provide
14 such information within thirty days may constitute the basis
15 for the revocation of or denial of an application for any
16 permit issued or applied for in accordance with Section [24
17 ~~of the Solid Waste Act~~] 74-9-24 NMSA 1978, but only if, prior
18 to any such denial or revocation, the director notifies the
19 applicant or permittee of the director's intention to do so
20 and gives the applicant or permittee fourteen days from the
21 date of the notice to explain why the information was not
22 provided within the required thirty-day period. The director
23 shall consider this information when determining whether to
24 revoke or deny the permit.

25 E. No person shall be required to submit the
disclosure statement required by this section if the person
is a corporation or an officer, director or shareholder of
that corporation and that corporation:

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1 (1) has on file and in effect with the
2 federal securities and exchange commission a registration
3 statement required under Section 5, Chapter 38, Title 1 of
4 the Securities Act of 1933, as amended, 15 U.S.C. Section 77e
5 (c);

6 (2) submits to the director with the
7 application for a permit evidence of the registration
8 described in Paragraph (1) of this subsection and a copy of
9 the corporation's most recent annual form 10-K or an
10 equivalent report; and

11 (3) submits to the director on the
12 anniversary of the date of the issuance of any permit it
13 holds under the Solid Waste Act evidence of registration
14 described in Paragraph (1) of this subsection and a copy of
15 the corporation's most recent annual form 10-K or an
16 equivalent report."

17 Section 86. TEMPORARY PROVISION--TRANSFERS OF
18 PERSONNEL, FUNCTIONS, MONEY, PROPERTY, CONTRACTUAL
19 OBLIGATIONS AND STATUTORY REFERENCES.--

20 A. On the effective date of this act, all
21 personnel, functions, appropriations, money, records,
22 furniture, equipment and other property belonging to or
23 allocated to the New Mexico state police division, the
24 special investigations division, the motor transportation
25 division and the technical and emergency support division of
the department of public safety shall be transferred to the
New Mexico state police.

B. On the effective date of this act, all

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1 contractual obligations of the New Mexico state police
2 division, the special investigations division, the motor
3 transportation division and the technical and emergency
4 support division of the department of public safety shall be
5 binding on the New Mexico state police.

6 C. On the effective date of this act, all
7 references in the law to the New Mexico state police division
8 of the department of public safety shall be construed to be
9 references to the New Mexico state police; all references in
10 the law to the director of the New Mexico state police
11 division of the department of public safety shall be
12 construed to be references to the chief of the New Mexico
13 state police. All references in the law to the special
14 investigations division of the department of public safety
15 shall be construed to be references to the special
16 investigations division of the New Mexico state police. All
17 references in the law to the motor transportation division of
18 the department of public safety shall be construed to be
19 references to the motor transportation division of the New
20 Mexico state police. All references in the law to the
21 technical and emergency support division of the department of
22 public safety shall be construed to be references to the
23 technical and emergency support division of the New Mexico
24 state police.

25 D. On the effective date of this act, all
personnel, functions, appropriations, money, records,
furniture, equipment and other property belonging to or
allocated to the training and recruiting division of the

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1 department of public safety shall be transferred to the New
2 Mexico law enforcement academy.

3 E. On the effective date of this act, all
4 contractual obligations of the training and recruiting
5 division of the department of public safety shall be binding
6 on the New Mexico law enforcement academy.

7 F. On the effective date of this act, all
8 references in the law to the training and recruiting division
9 of the department of public safety shall be construed to be
10 references to the New Mexico law enforcement academy.

11 G. The New Mexico state police and the New Mexico
12 law enforcement academy shall provide for the equitable
13 distribution of functions and property of the administrative
14 services division and the office of the secretary of the
15 department of public safety and any other property that had
16 not belonged to or been allocated to the divisions identified
17 in Subsections A and D of this section. The distribution of
18 functions and property shall be done in such a manner that
19 all state law enforcement functions and property shall be
20 transferred to the New Mexico state police. If the
21 department of public safety computer systems cannot be
22 distributed to the two agencies, either because of financial
23 constraints or system design, the agencies shall share the
24 department systems until new systems can be provided. The
25 New Mexico state police shall be in charge of those computer
systems and shall ensure that the New Mexico law enforcement
academy is provided adequate use of the systems.

Section 87. REPEAL.--Sections 9-19-1 through 9-19-11

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1 and 29-4-11 NMSA 1978 (being Laws 1987, Chapter 254, Sections
2 1 through 6, Laws 1989, Chapter 72, Section 1, Laws 1987,
3 Chapter 254, Sections 7 through 10 and 12 and Laws 1939,
4 Chapter 213, Section 12, as amended) are repealed.

5 Section 88. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2000.

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