

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

SENATE BILL 194

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Dede Feldman

FOR THE CORRECTIONS OVERSIGHT AND JUSTICE COMMITTEE, THE  
INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE AND THE LEGISLATIVE  
HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO PUBLIC HEALTH EMERGENCIES; ENACTING THE PUBLIC  
HEALTH EMERGENCY RESPONSE ACT; PROVIDING PROCEDURES FOR  
DECLARING AND RESPONDING TO A PUBLIC HEALTH EMERGENCY;  
PROVIDING CIVIL PENALTIES; DECLARING AN EMERGENCY.

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

Section 1. A new section of Chapter 12, Article 10 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] SHORT TITLE. --This act may be cited as the  
"Public Health Emergency Response Act". "

Section 2. A new section of Chapter 12, Article 10 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] PURPOSES OF ACT. --The purposes of the  
Public Health Emergency Response Act are to:

A. provide the state of New Mexico with the ability

underscored material = new  
[bracketed material] = delete

1 to manage public health emergencies in a manner that protects  
2 civil rights and the liberties of individual persons;

3 B. prepare for a public health emergency; and

4 C. provide access to appropriate care, if needed,  
5 for an indefinite number of infected, exposed or endangered  
6 people in the event of a public health emergency. "

7 Section 3. A new section of Chapter 12, Article 10 NMSA  
8 1978 is enacted to read:

9 "[NEW MATERIAL] DEFINITIONS. --As used in the Public Health  
10 Emergency Response Act:

11 A. "attorney general" means the attorney general  
12 for the state of New Mexico;

13 B. "court" means the district court for the  
14 judicial district where a public health emergency is occurring,  
15 the district court for Santa Fe county or, in the event that a  
16 district court cannot adequately provide services, a district  
17 court designated by the New Mexico supreme court;

18 C. "director" means the director of homeland  
19 security;

20 D. "health care supplies" means medication, durable  
21 medical equipment, instruments, linens or any other material  
22 that the state of New Mexico may need to use in a public health  
23 emergency, including supplies for preparedness, mitigation and  
24 recovery;

25 E. "health facility" means:

. 142918. 3

underscored material = new  
[bracketed material] = del ete

1 (1) a facility licensed by the state of New  
2 Mexico pursuant to the provisions of the Public Health Act;

3 (2) a non-federal facility or building,  
4 whether public or private, for-profit or nonprofit, that is  
5 used, operated or designed to provide health services, medical  
6 treatment, nursing services, rehabilitative services or  
7 preventive care;

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

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

- 12 (a) laboratories;
- 13 (b) research facilities;
- 14 (c) pharmacies;
- 15 (d) laundry facilities;
- 16 (e) health personnel training and  
17 lodging facilities;
- 18 (f) patient, guest and health personnel  
19 food service facilities; and
- 20 (g) offices or office buildings used by  
21 persons engaged in health care professions or services;

22 F. "isolation" means the physical separation for  
23 possible medical care of persons who are infected or who are  
24 reasonably believed to be infected with a threatening  
25 communicable disease or potential threatening communicable

1 disease from non-isolated persons, to protect against the  
2 transmission of the threatening communicable disease to  
3 non-isolated persons;

4 G. "public health emergency" means the occurrence  
5 or imminent threat of exposure to an extremely dangerous  
6 condition or a highly infectious or toxic agent, including a  
7 threatening communicable disease, that poses an imminent threat  
8 of substantial harm to the population of the state of New  
9 Mexico or any portion thereof;

10 H. "public health official" means the secretary of  
11 health or his designee, including a qualified public individual  
12 or group or a qualified private individual or group, as  
13 determined by the secretary of health;

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

21 J. "secretary of health" means the secretary of  
22 health or his designee;

23 K. "secretary of public safety" means the secretary  
24 of public safety or his designee; and

25 L. "threatening communicable disease" means a

underscored material = new  
[bracketed material] = delete

1 disease that causes death or great bodily harm that passes from  
2 one person to another and for which there are no means by which  
3 the public can reasonably avoid the risk of contracting the  
4 disease. "Threatening communicable disease" does not include  
5 acquired immune deficiency syndrome or other infections caused  
6 by the human immunodeficiency virus. "

7 Section 4. A new section of Chapter 12, Article 10 NMSA  
8 1978 is enacted to read:

9 "[NEW MATERIAL] ENHANCED PUBLIC HEALTH ADVISORY. --

10 A. The governor, after consultation with the  
11 secretary of health, may issue an enhanced public health  
12 advisory if the governor has reasonable cause to believe that a  
13 public health emergency may occur.

14 B. The secretary of health may use powers and  
15 duties conferred under the Public Health Act to investigate the  
16 conditions leading to the issuance of the enhanced public  
17 health advisory.

18 C. The enhanced public health advisory shall be  
19 broadly disseminated in English, Spanish and other appropriate  
20 languages to the impacted population. "

21 Section 5. A new section of Chapter 12, Article 10 NMSA  
22 1978 is enacted to read:

23 "[NEW MATERIAL] DECLARING A STATE OF PUBLIC HEALTH  
24 EMERGENCY-- TERMINATING THE EMERGENCY. --

25 A. A state of public health emergency may be

underscored material = new  
[bracketed material] = del etc

1 declared by the governor upon the occurrence of a public health  
2 emergency. Prior to a declaration of a state of public health  
3 emergency, the governor shall consult with the secretary of  
4 health. The governor shall authorize the secretary of health,  
5 the secretary of public safety and the director to coordinate a  
6 response to the public health emergency.

7 B. A state of public health emergency shall be  
8 declared in an executive order that specifies:

9 (1) the nature of the public health emergency;  
10 (2) the political subdivisions or geographic  
11 areas affected by the public health emergency;

12 (3) the conditions that caused the public  
13 health emergency;

14 (4) the expected duration of the public health  
15 emergency, if less than thirty days;

16 (5) the public health officials needed to  
17 assist in the coordination of a public health emergency  
18 response; and

19 (6) any other provisions necessary to  
20 implement the executive order.

21 C. A declaration of a state of public health  
22 emergency shall not abrogate any disease-reporting requirements  
23 set forth in the Public Health Act.

24 D. A declaration of a state of public health  
25 emergency shall be terminated:

. 142918. 3

underscored material = new  
[bracketed material] = delete

1 (1) by the governor, after consultation with  
2 the secretary of health, upon determining that there is no  
3 longer a public health emergency; or

4 (2) automatically after thirty days, unless  
5 renewed by the governor after consultation with the secretary  
6 of health.

7 E. Upon the termination of a state of public health  
8 emergency, the secretary of health shall consult with the  
9 secretary of public safety and the director to ensure public  
10 safety during termination procedures. "

11 Section 6. A new section of Chapter 12, Article 10 NMSA  
12 1978 is enacted to read:

13 "[NEW MATERIAL] SPECIAL POWERS DURING A PUBLIC HEALTH  
14 EMERGENCY. --

15 A. In order to protect the health, safety and  
16 welfare of the people in the state during a public health  
17 emergency, the secretary of health, in coordination with the  
18 secretary of public safety and the director, may:

19 (1) utilize, secure or evacuate health care  
20 facilities for public use; and

21 (2) inspect, regulate or ration health care  
22 supplies as provided in Subsection B of this section.

23 B. If a public health emergency results in a  
24 statewide or regional shortage of health care supplies, the  
25 secretary of health may control, restrict and regulate the

. 142918. 3

underscored material = new  
[bracketed material] = delete

1 allocation, sale, dispensing or distribution of health care  
2 supplies.

3 C. The state medical investigator, after  
4 consultation with the secretary of health, the secretary of  
5 public safety, the director and the chairman of the board of  
6 thanatopractice, may implement and enforce measures to provide  
7 for the safe disposal of human remains that may be reasonable  
8 and necessary to respond to a public health emergency. The  
9 measures may include special provisions for embalming, burial,  
10 cremation, interment, disinterment, transportation and disposal  
11 of human remains. To the extent possible, the religious,  
12 cultural, family and individual beliefs of a deceased person or  
13 of the family of a deceased person shall be considered when  
14 disposing of human remains. "

15 Section 7. A new section of Chapter 12, Article 10 NMSA  
16 1978 is enacted to read:

17 "[NEW MATERIAL] PROCEDURES FOR ISOLATION OR QUARANTINE OF  
18 PERSONS. --

19 A. Except as provided in Section 9 of the Public  
20 Health Emergency Response Act, before isolating or quarantining  
21 a person during a declared public health emergency, the  
22 secretary of health shall apply for and obtain a written, ex  
23 parte order from a court that authorizes the isolation or  
24 quarantine. Notice of the application for the ex parte order  
25 shall be given, unless it clearly appears from specific facts

. 142918. 3



1 shown that immediate and irreparable injury, loss or damage  
2 will result before an affected person can be heard in  
3 opposition to the application. The evidence or testimony in  
4 support of the application may be presented or taken by  
5 telephone, facsimile transmission, video equipment or other  
6 method of electronic communication. The court shall grant the  
7 application for an ex parte order upon finding that clear and  
8 convincing evidence exists to believe isolation or quarantine  
9 is warranted to respond to the public health emergency.

10 B. The ex parte order shall:

11 (1) state the specific facts justifying  
12 isolation or quarantine;

13 (2) state the persons, group or class of  
14 persons affected by the ex parte order;

15 (3) state that the persons being isolated or  
16 quarantined have a right to a court hearing under the Public  
17 Health Emergency Response Act and a right to be represented by  
18 counsel at the hearing; and

19 (4) be served as soon as practicable to  
20 persons isolated or quarantined.

21 C. The secretary of health shall coordinate with  
22 the secretary of public safety and the director regarding  
23 execution of the ex parte order. The ex parte order shall be  
24 posted in a public and accessible place. If individual notice  
25 is not feasible, the secretary of health, the secretary of

underscored material = new  
[bracketed material] = delete

1 public safety and the director shall use the best means  
2 available to ensure that a person subject to the ex parte order  
3 is informed of the order and his rights.

4 D. A person who is isolated or quarantined may  
5 request a court hearing pursuant to Section 10 of the Public  
6 Health Emergency Response Act at any time before the expiration  
7 of the ex parte order. A person shall not be isolated or  
8 quarantined pursuant to an ex parte order for longer than ten  
9 days without a court hearing to determine whether isolation or  
10 quarantine should continue.

11 E. The isolation or quarantine of a person shall  
12 terminate automatically on the expiration date of a court order  
13 authorizing isolation or quarantine, or before the expiration  
14 date of the court order, upon notice to the court, if the  
15 secretary of health determines that isolation or quarantine is  
16 no longer necessary to protect the public."

17 Section 8. A new section of Chapter 12, Article 10 NMSA  
18 1978 is enacted to read:

19 "[NEW MATERIAL] ISOLATION OR QUARANTINE AUTHORIZED--  
20 PROTECTION OF A PERSON ISOLATED OR QUARANTINED.--

21 A. The secretary of health may isolate or  
22 quarantine a person as necessary during a public health  
23 emergency, using the procedures set forth in the Public Health  
24 Emergency Response Act.

25 B. The secretary of health, the secretary of public

underscored material = new  
[bracketed material] = delete

1 safety, the director and anyone acting under the secretaries'  
2 or the director's authority, when isolating or quarantining a  
3 person during a public health emergency, shall ensure that:

4 (1) isolation or quarantine shall be by the  
5 least restrictive means necessary to protect against the spread  
6 of a threatening communicable disease or a potentially  
7 threatening communicable disease to others and may include  
8 confinement to a private home or other private or public  
9 premises;

10 (2) isolated persons are confined separately  
11 from quarantined persons;

12 (3) the health status of an isolated or  
13 quarantined person is monitored regularly to determine if he  
14 requires continued isolation or quarantine. To adequately  
15 address emergency health situations, an isolated or quarantined  
16 person shall be given a reliable means to communicate twenty-  
17 four hours a day with health officials and to summon emergency  
18 health services;

19 (4) if a quarantined person subsequently  
20 becomes infected or is reasonably believed to be infected with  
21 a threatening communicable disease or a potentially threatening  
22 communicable disease, he shall be isolated pursuant to the  
23 provisions of the Public Health Act or the Public Health  
24 Emergency Response Act;

25 (5) the needs of a person isolated or

underscored material = new  
[bracketed material] = delete

1 quarantined be addressed in a systematic and orderly manner,  
2 including the provision of adequate food, clothing, shelter,  
3 sanitation, and to the extent of available resources,  
4 appropriate medication and treatment, medical care and mental  
5 health care;

6 (6) there are methods of communication  
7 available to a person placed in isolation or quarantine so that  
8 he may communicate with others, including family members,  
9 household members, legal representatives, advocates and the  
10 media. Accommodations shall also be made for religious worship  
11 or practice and updates on the status of the public health  
12 emergency, as available;

13 (7) the premises used for isolation or  
14 quarantine are maintained in a safe and hygienic manner and are  
15 designed to minimize the likelihood of further transmission of  
16 infection or other injury to other persons who are isolated or  
17 quarantined; and

18 (8) to the extent feasible, forms are provided  
19 to a person in isolation or quarantine that document the  
20 person's consent or objection to the isolation or quarantine.

21 C. A person isolated or quarantined pursuant to the  
22 provisions of the Public Health Emergency Response Act has the  
23 right to refuse medical treatment, testing, physical or mental  
24 examination, vaccination, specimen collections and preventive  
25 treatment programs. A person who has been directed by the

underscored material = new  
[bracketed material] = delete

1 secretary of health to submit to medical procedures and  
2 protocols because the person is infected with, reasonably  
3 believed to be infected with, or exposed to a threatening  
4 communicable disease and who refuses to submit to the  
5 procedures and protocols may be subject to continued isolation  
6 or quarantine pursuant to the provisions of the Public Health  
7 Emergency Response Act.

8 D. A person not authorized by the secretary of  
9 public safety, the secretary of health or the director shall  
10 not enter an isolation or quarantine area. If, by reason of an  
11 unauthorized entry into an isolation or quarantine area, a  
12 person poses a danger to public health, the person may be  
13 subject to isolation or quarantine pursuant to the provisions  
14 of the Public Health Emergency Response Act.

15 E. A household or family member of a person  
16 isolated or quarantined has a right to choose to enter an  
17 isolation or quarantine area. The secretary of public safety,  
18 the secretary of health or the director shall permit the  
19 household or family member entry into the isolation or  
20 quarantine area if the household or family member signs a  
21 consent form stating that the member has been informed of the  
22 potential health risks, isolation and quarantine guidelines and  
23 the consequences of entering the area. The household or family  
24 member shall not hold the state of New Mexico responsible for  
25 any consequences by reason of entry into the isolation or

. 142918. 3

underscored material = new  
[bracketed material] = delete

1 quarantine area. A household or family member who enters the  
2 area, at the discretion of the public health official, may be  
3 subject to isolation or quarantine pursuant to the provisions  
4 of the Public Health Emergency Response Act. "

5 Section 9. A new section of Chapter 12, Article 10 NMSA  
6 1978 is enacted to read:

7 "[NEW MATERIAL] TEMPORARY HOLD UPON SECRETARY' S ORDER. --

8 A. If the secretary of health makes a finding that  
9 a delay in isolating or quarantining a person will  
10 significantly jeopardize the secretary's ability to prevent or  
11 limit the transmission of a threatening communicable disease,  
12 then the secretary of health may, by public health order,  
13 isolate or quarantine a person without first obtaining a  
14 written, ex parte order from a court.

15 B. Following the imposition of isolation or  
16 quarantine pursuant to Subsection A of this section, the  
17 secretary of health, within twenty-four hours of the  
18 imposition, shall apply for an ex parte order that authorizes  
19 the isolation or quarantine and shall follow the procedures and  
20 meet the standards set forth in Section 8 of the Public Health  
21 Emergency Response Act.

22 C. In a subsequent application to a court, the  
23 secretary of health shall present facts in support of the need  
24 to issue a temporary hold before obtaining the ex parte order  
25 from the court that authorizes the isolation or quarantine. "

underscored material = new  
[bracketed material] = delete

1           Section 10. A new section of Chapter 12, Article 10 NMSA  
2 1978 is enacted to read:

3           "[NEW MATERIAL] COURT HEARING TO CONTEST ISOLATION OR  
4 QUARANTINE. --

5           A. A person who is isolated or quarantined under a  
6 temporary hold, ex parte order or court order may petition the  
7 court to contest the temporary hold, ex parte order or court  
8 order at any time prior to the expiration of the temporary  
9 hold, ex parte order or court order. If a petition is filed,  
10 the court shall hold a hearing within three business days after  
11 the date of the filing. The filing of a petition for a hearing  
12 does not stay an order of isolation or quarantine. At the  
13 hearing, the secretary of health shall offer clear and  
14 convincing evidence that the isolation or quarantine is  
15 warranted to respond to a public health emergency.

16           B. If the secretary of health wishes to extend an  
17 order for isolation or quarantine past the period of time  
18 stated in the temporary hold, ex parte order or court order,  
19 the secretary of health shall petition the court for an  
20 extension. Notice of the hearing shall be served to every  
21 person who is isolated or quarantined at least three days  
22 prior to the hearing. If it is not feasible to provide  
23 individual notice to every person isolated or quarantined, a  
24 copy of the notice shall be posted in a public and accessible  
25 place, using the best means available to ensure that every

underscored material = new  
[bracketed material] = delete

1 person subject to the order is informed of the order and their  
2 rights.

3 C. The hearing notice shall contain:

4 (1) the date, time and place of the hearing;

5 (2) the grounds upon which continued isolation  
6 or quarantine is sought;

7 (3) the person's right to appear at the  
8 hearing; and

9 (4) the person's right to counsel, including  
10 the right, if indigent, to be represented by counsel designated  
11 by the court.

12 D. The court may order an extension of the  
13 isolation or quarantine if it finds, by clear and convincing  
14 evidence, that there is an imminent health threat to others if  
15 the isolation or quarantine is terminated.

16 E. In no case shall the isolation or quarantine  
17 continue longer than thirty days from the date of a court  
18 order, unless the secretary of health petitions the court for  
19 an extension pursuant to the standards and procedures set forth  
20 in this section.

21 F. Upon notice to a court by the secretary of  
22 health that the conditions warranting isolation or quarantine  
23 no longer exist, the court shall issue an order terminating the  
24 isolation or quarantine. "

25 Section 11. A new section of Chapter 12, Article 10 NMSA

. 142918. 3



underscored material = new  
[bracketed material] = delete

1 1978 is enacted to read:

2 "[NEW MATERIAL] HEARING ON CONDITIONS OF ISOLATION AND  
3 QUARANTINE. --

4 A. A person who is isolated or quarantined may  
5 request a hearing in court, as provided in Section 10 of the  
6 Public Health Emergency Response Act, for remedies regarding  
7 treatment or the terms and condition of the isolation or  
8 quarantine.

9 B. Upon receiving a request for a hearing pursuant  
10 to this section, the court shall fix a date for a hearing  
11 within seven days of the court's receipt of the request.

12 C. A request for a hearing does not alter an order  
13 for isolation or quarantine. If the court finds that the  
14 isolation or quarantine of a person is not in compliance with  
15 the provisions of the Public Health Emergency Response Act, the  
16 court may fashion remedies appropriate to the circumstances of  
17 the public health emergency. "

18 Section 12. A new section of Chapter 12, Article 10 NMSA  
19 1978 is enacted to read:

20 "[NEW MATERIAL] MEDICAL EXAMINATION AND TESTING. --

21 A. During a state of public health emergency,  
22 medical examinations or tests may be performed by a qualified  
23 person authorized by the secretary of health to provide medical  
24 examinations or tests.

25 B. The secretary of health may isolate or

underscored material = new  
[bracketed material] = delete

1 quarantine a person whose refusal of medical examination or  
2 testing results in uncertainty regarding whether the person has  
3 been exposed to or is infected with a threatening communicable  
4 disease or otherwise reasonably poses a danger to public  
5 health. "

6 Section 13. A new section of Chapter 12, Article 10 NMSA  
7 1978 is enacted to read:

8 "[NEW MATERIAL] VACCINATION AND TREATMENT. --

9 A. During a state of public health emergency, a  
10 qualified person authorized by the secretary of health may  
11 vaccinate persons to prevent infection by a threatening  
12 communicable disease and to protect against the spread of that  
13 disease.

14 B. To protect against the spread of a threatening  
15 communicable disease, the secretary of health may isolate or  
16 quarantine a person who is unable or unwilling for reasons of  
17 health, religion or conscience to undergo vaccination pursuant  
18 to the standards and procedures set forth in the Public Health  
19 Emergency Response Act.

20 C. A qualified person authorized by the secretary  
21 of health may vaccinate a minor less than eighteen years of  
22 age, unless the minor or his duly authorized representative  
23 presents a certificate issued by a duly licensed physician that  
24 states that the minor's physical condition is such that the  
25 vaccination would seriously endanger his life or health.

. 142918. 3

underscored material = new  
[bracketed material] = delete

1           D. During a state of public health emergency, in  
2 order to provide treatment to a person who is exposed to or  
3 infected with a threatening communicable disease:

4                   (1) treatment may be administered by a public  
5 health official;

6                   (2) treatment shall be approved pursuant to  
7 appropriate regulations promulgated by the federal food and  
8 drug administration; and

9                   (3) the secretary of health may isolate or  
10 quarantine a person who is unable or unwilling, for reasons of  
11 health, religion or conscience, to undergo treatment pursuant  
12 to the standards and procedures set forth in the Public Health  
13 Emergency Response Act. "

14           Section 14. A new section of Chapter 12, Article 10 NMSA  
15 1978 is enacted to read:

16           "[NEW MATERIAL] IMMUNITY.--During a state of public health  
17 emergency, the state, its political subdivisions, the governor,  
18 the secretary of health, the secretary of public safety, the  
19 director or any other state or local officials or personnel who  
20 assist during the public health emergency are not liable for  
21 the death of a person, injury to a person or damage to  
22 property, as a result of complying with or attempting to comply  
23 with the provisions of the Public Health Emergency Response Act  
24 or a rule adopted pursuant to that act. The immunity shall not  
25 extend to acts of willful misconduct, gross negligence or

. 142918. 3

underscored material = new  
[bracketed material] = delete

1 reckless. "

2 Section 15. A new section of Chapter 12, Article 10 NMSA  
3 1978 is enacted to read:

4 "[NEW MATERIAL] COMPENSATION. --

5 A. The state shall pay just compensation to the  
6 owner of health care supplies, a health facility or any other  
7 property that is lawfully taken or appropriated by the  
8 secretary of health, the secretary of public safety or the  
9 director for temporary or permanent use during a public health  
10 emergency. The amount of compensation due shall be calculated  
11 in the same manner as compensation due for taking of property  
12 pursuant to non-emergency eminent domain procedures, as  
13 provided in the Eminent Domain Code; provided that the amount  
14 of compensation calculated for property shall not exceed the  
15 original purchase price of the item.

16 B. Compensation shall not be provided when health  
17 care supplies, a health facility or any other property is  
18 decontaminated, destroyed, closed or evacuated and there is  
19 reasonable cause to believe that the property may endanger the  
20 public health.

21 C. The attorney general shall make the  
22 determination of whether or not compensation is due to an owner  
23 of health care supplies or a health facility or any other  
24 property. If compensation is due, the attorney general shall  
25 determine the amount of the compensation.

. 142918. 3

underscored material = new  
[bracketed material] = delete

1           D. To the extent practicable and consistent with  
2 protection of public health, the attorney general shall prior  
3 to the destruction of property institute appropriate civil  
4 proceedings against the property to be destroyed, in accordance  
5 with existing laws, court rules or rules the courts may develop  
6 during a state of public health emergency. "

7           Section 16. A new section of Chapter 12, Article 10 NMSA  
8 1978 is enacted to read:

9           "[NEW MATERIAL] RULEMAKING. --The secretary of public  
10 safety, the secretary of health and, where appropriate, other  
11 affected state agencies in consultation with the secretary of  
12 health and the secretary of public safety, shall promulgate and  
13 implement rules that are reasonable and necessary to implement  
14 and effectuate the Public Health Emergency Response Act. "

15           Section 17. A new section of Chapter 12, Article 10 NMSA  
16 1978 is enacted to read:

17           "[NEW MATERIAL] MEMORANDUM OF UNDERSTANDING-- INDIAN  
18 PUEBLOS OR TRIBAL ENTITIES. --The secretary of public safety,  
19 the secretary of health, the director and, when appropriate,  
20 other state agencies in consultation with the secretary of  
21 health and the secretary of public safety, may enter into a  
22 memorandum of understanding with an Indian pueblo or tribal  
23 entity within the state of New Mexico in order to effectuate  
24 the purposes, procedures and standards set forth in the Public  
25 Health Emergency Response Act. "

underscored material = new  
[bracketed material] = delete

1           Section 18. A new section of Chapter 12, Article 10 NMSA  
2 1978 is enacted to read:

3           "[NEW MATERIAL] ENFORCEMENT--CIVIL PENALTIES. --

4           A. The secretary of health, the secretary of public  
5 safety or the director may enforce the provisions of the Public  
6 Health Emergency Response Act by imposing a civil  
7 administrative penalty of up to five thousand dollars (\$5,000)  
8 for each violation of that act. A civil administrative penalty  
9 may be imposed pursuant to a written order issued by the  
10 secretary of health, the secretary of public safety or the  
11 director after a hearing is held in accordance with the rules  
12 promulgated pursuant to the provisions of Section 16 of the  
13 Public Health Emergency Response Act.

14           B. The provisions of the Public Health Emergency  
15 Response Act shall not be construed to limit specific  
16 enforcement powers enumerated in that act.

17           C. The enforcement authority provided pursuant to  
18 the provisions of the Public Health Emergency Response Act is  
19 in addition to other remedies available against the same  
20 conduct under the common law or other statutes of this state."

21           Section 19. SEVERABILITY.--If any part or application of  
22 the Public Health Emergency Response Act is held invalid, the  
23 remainder or its application to other situations or persons  
24 shall not be affected.

25           Section 20. EMERGENCY.--It is necessary for the public

. 142918. 3

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

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

peace, health and safety that this act take effect immediately.