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SENATE BILL 117

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

John Arthur Smith

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; MERGING THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT WITH THE DEPARTMENT OF PUBLIC SAFETY; PROVIDING FOR TRANSFERS OF FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND REFERENCES; REPEALING THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAWS IN LAWS 2007.

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

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

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

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

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

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

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

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

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

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

25 (c) adequate drainage is provided so as

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1 to reduce exposure to flood hazards;

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

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

11 B. A flood plain ordinance adopted pursuant to this
12 section shall substantially conform to the minimum standards
13 prescribed by the federal insurance administration, regulation
14 1910 issued pursuant to Subsection 7(d), 79 Stat. 670, Section
15 1361, 82 Stat. 587 and 82 Stat. 575, all as amended.

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

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

24 E. A county or municipality shall have exclusive
25 jurisdiction over flood plain permits issued under its

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

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

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

23 H. The homeland security and emergency management
24 division of the department of public safety is designated as
25 the state coordinating agency for the national flood insurance

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1 program and may assist counties or municipalities when
2 requested by a county or municipality to provide technical
3 advice and assistance."

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

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

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

19 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the
20 executive branch the "department of public safety". The
21 department shall be a cabinet department and shall consist of,
22 but not be limited to, [~~five~~] seven program divisions, an
23 administrative division and an information technology division
24 as follows:

25 A. the New Mexico state police division;

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- 1 B. the special investigations division;
- 2 C. the training and recruiting division;
- 3 D. the technical support division;
- 4 E. the administrative services division;
- 5 F. the motor transportation division; ~~and~~
- 6 G. the information technology division; and
- 7 H. the homeland security and emergency management
- 8 division."

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

11 "9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND
12 DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

13 A. The organizational units of the department and
14 the officers of those units specified by law shall have all the
15 powers and duties enumerated in the specific laws involved.
16 However, the carrying out of those powers and duties shall be
17 subject to the direction and supervision of the secretary, who
18 shall retain the final decision-making authority and
19 responsibility for the administration of any such laws as
20 provided in Subsection B of Section 9-19-6 NMSA 1978. The
21 department shall have access to all records, data and
22 information of other state departments, agencies and
23 institutions, including its own organizational units, not
24 specifically held confidential by law.

25 B. The New Mexico state police division shall

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1 consist of the commissioned officers and civilian personnel,
2 including all communications equipment operators, of the New
3 Mexico state police uniform division and the commissioned
4 officers and civilian personnel of the New Mexico state police
5 criminal division and such other personnel as may be assigned
6 by the secretary or by the governor pursuant to an executive
7 order as authorized in the Department of Public Safety Act.

8 C. The special investigations division shall
9 consist of the enforcement personnel of the department of
10 alcoholic beverage control and such other personnel as may be
11 assigned by the secretary or by the governor pursuant to an
12 executive order as authorized in the Department of Public
13 Safety Act. The division is responsible for the enforcement of
14 the New Mexico Bingo and Raffle Act and the Liquor Control Act.

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

17 E. The training and recruiting division shall
18 consist of the personnel of the New Mexico law enforcement
19 academy, the New Mexico state police training division and all
20 other training personnel and functions of the department as the
21 secretary may transfer to this division.

22 F. The administrative services division shall
23 consist of the administrative services [~~and services divisions~~]
24 of the [~~New Mexico state police and those administrative~~
25 ~~support personnel of the other existing departments, divisions~~

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1 ~~or offices as the secretary deems necessary]~~ department.

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

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

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

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

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

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

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1 man-made disaster;

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

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

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

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

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

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

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1 involving a weapon of mass destruction; and
2 (12) performing such other duties relating to
3 homeland security as may be assigned by the governor or the
4 secretary."

5 Section 5. A new section of the Department of Public
6 Safety Act is enacted to read:

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

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

20 B. The governor may by appropriate order designate
21 the division or the department as the single state agency for
22 the administration of any homeland security or emergency
23 management program when that designation is a condition of
24 federal financial or other participation in the program under
25 applicable federal law, rule or order. Whether or not a

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1 federal condition exists, the governor may designate the
2 division or the department as the single state agency for the
3 administration of any homeland security or emergency management
4 program. No designation of a single state agency under the
5 authority granted in this section shall be made in
6 contravention of state law."

7 Section 6. Section 9-19-9 NMSA 1978 (being Laws 1987,
8 Chapter 254, Section 9) is amended to read:

9 "9-19-9. DIRECTORS.--The secretary shall appoint, with
10 the approval of the governor, directors of the divisions as are
11 established within the department [~~provided~~]. The director of
12 the New Mexico state police division shall be titled the "chief
13 of the New Mexico state police". The director of the homeland
14 security and emergency management division shall be titled the
15 "state director of homeland security and emergency management".
16 The positions so appointed are exempt from the Personnel Act."

17 Section 7. Section 12-10-4 NMSA 1978 (being Laws 1959,
18 Chapter 190, Section 5, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

19 Section 8. Section 12-10-6 NMSA 1978 (being Laws 1959,
20 Chapter 190, Section 7, as amended) is amended to read:

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

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

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

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

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

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

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

13 Section 11. Section 12-10-13 NMSA 1978 (being Laws 2002,
14 Chapter 83, Section 4, as amended) is amended to read:

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

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

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

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

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

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

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

20 E. "health facility" means:

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

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

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

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

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

7 (a) laboratories;

8 (b) research facilities;

9 (c) pharmacies;

10 (d) laundry facilities;

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

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

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

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

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

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

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

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

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

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

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

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1 by the human immunodeficiency virus."

2 Section 13. Section 12-10D-2 NMSA 1978 (being Laws 2009,
3 Chapter 111, Section 2) is amended to read:

4 "12-10D-2. DEFINITIONS.--As used in the Emergency
5 Communications Interoperability Act:

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

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

12 (1) a law enforcement officer;

13 (2) a firefighter or certified volunteer
14 firefighter; and

15 (3) an emergency medical services provider;

16 C. "infrastructure equipment" means the underlying
17 fixed equipment required to establish interoperable
18 communications between radio systems used by local, state,
19 tribal and federal agencies and first responders; and

20 D. "interoperability" means coordination of
21 critical information communication systems or networks,
22 including radio and emergency coordination information
23 equipment, that are consistently operable with all relevant
24 local, state, tribal and federal agencies and first
25 responders."

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1 Section 14. Section 12-12-19 NMSA 1978 (being Laws 1983,
2 Chapter 80, Section 3, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

14 L. "plan" means the statewide hazardous materials
15 emergency response plan;

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

25 N. "responsible state agency" means an agency

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1 designated in Subsection D of Section 12-12-21 NMSA 1978 with
2 responsibility for managing a certain type of accident or
3 performing certain functions at the scene of such accident; and

4 0. "secretary" or "state director" means the
5 [~~state~~] director of the homeland security and emergency
6 management division of the department of public safety."

7 Section 15. Section 12-12-21 NMSA 1978 (being Laws 1983,
8 Chapter 80, Section 5, as amended by Laws 2007, Chapter 290,
9 Section 11 and by Laws 2007, Chapter 291, Section 29) is
10 amended to read:

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

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

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

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

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

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

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

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

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

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

23 D. The responsible state agencies shall be:

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

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1 enforcement and traffic and crowd control;

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

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

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

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

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

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

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

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

5 Section 16. Section 12-12-23 NMSA 1978 (being Laws 1984,
6 Chapter 41, Section 6, as amended) is amended to read:

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

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

15 "74-4E-3. DEFINITIONS.--As used in the Hazardous
16 Chemicals Information Act:

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

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

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

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

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

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

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

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

23 Section 18. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,
24 APPROPRIATIONS AND PROPERTY--CONTRACTUAL OBLIGATIONS--STATUTORY
25 REFERENCES.--

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[bracketed material] = delete

1 A. On the effective date of this act, all
2 functions, appropriations, money, records, furniture, equipment
3 and other property of the homeland security and emergency
4 management department shall be transferred to the department of
5 public safety.

6 B. On the effective date of this act, contractual
7 obligations of the homeland security and emergency management
8 department are binding on the department of public safety.

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

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

22 Section 20. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2010.