

1 SENATE JOINT MEMORIAL 7

2 49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

3 INTRODUCED BY

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10 A JOINT MEMORIAL

11 ESTABLISHING A TASK FORCE TO REVIEW THE PROPOSED MODEL STATE  
12 ADMINISTRATIVE PROCEDURE ACT AND MAKE RECOMMENDATIONS  
13 CONCERNING THE ADOPTION OF PART OR ALL OF THAT MODEL ACT.

14  
15 WHEREAS, the health and well-being of New Mexico's people  
16 and communities depend on the maintenance of a clean and  
17 healthy environment as well as a strong business climate that  
18 is hospitable to various industries; and

19 WHEREAS, New Mexico's ability to maintain a clean and  
20 healthy environment and a hospitable business climate depends  
21 on the fair and predictable administration and enforcement of  
22 various state laws and regulations; and

23 WHEREAS, New Mexico statutes and regulations that provide  
24 for and govern rulemaking and adjudications of regulatory  
25 activities lack uniformity, in part because the Administrative

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1 Procedures Act, enacted in 1969, does not apply to most New  
2 Mexico state agencies; and

3 WHEREAS, the national conference of commissioners on  
4 uniform state laws will release the final draft of the Model  
5 State Administrative Procedure Act in 2010 replete with options  
6 for state-specific adoption; and

7 WHEREAS, the people, businesses and communities of New  
8 Mexico deserve to have their policymakers and administrators  
9 review the Model State Administrative Procedure Act in order to  
10 make recommendations concerning the adoption of part or all of  
11 that model act;

12 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
13 STATE OF NEW MEXICO that an administrative procedures task  
14 force be created for 2010; and

15 BE IT FURTHER RESOLVED that the task force consist of  
16 nineteen members as follows:

17 A. one member of the senate from the majority  
18 party, one member of the senate from the minority party, one  
19 member of the house of representatives from the majority party  
20 and one member of the house of representatives from the  
21 minority party, appointed by the New Mexico legislative  
22 council;

23 B. the superintendent of regulation and licensing  
24 or the superintendent's designee;

25 C. the secretary of taxation and revenue or the

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1 secretary's designee;

2 D. the secretary of economic development or the  
3 secretary's designee;

4 E. the secretary of environment or the secretary's  
5 designee;

6 F. the secretary of energy, minerals and natural  
7 resources or the secretary's designee;

8 G. two representatives from New Mexico boards or  
9 commissions who work on administrative procedures in either a  
10 rulemaking or adjudicatory capacity, appointed by the governor;

11 H. the attorney general or the attorney general's  
12 designee;

13 I. one member of the state bar of New Mexico,  
14 appointed by the state bar president;

15 J. one member from the faculty of the university of  
16 New Mexico school of law, appointed by the dean of the school  
17 of law;

18 K. one member representing the interests of the  
19 judicial branch, appointed by the chief justice of the New  
20 Mexico supreme court;

21 L. two members representing the interests of  
22 different industries affected by regulatory proceedings,  
23 appointed by the governor; and

24 M. two members representing public advocacy groups,  
25 appointed by the governor; and

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1 BE IT FURTHER RESOLVED that vacancies on the task force be  
2 filled by appointment of the original appointing authority; and

3 BE IT FURTHER RESOLVED that the task force be chaired by  
4 the superintendent of regulation and licensing or the  
5 superintendent's designee and that the task force meet at the  
6 call of the chair but not less than three times throughout the  
7 year; and

8 BE IT FURTHER RESOLVED that the task force be requested to  
9 review the current state of rulemaking and adjudicatory  
10 proceedings used by New Mexico agencies; to look at rulemaking  
11 and adjudicatory proceedings in other states; to review the  
12 Model State Administrative Procedure Act and to consider  
13 whether all or part of the proposed act should apply to some or  
14 all New Mexico agencies; to consider whether broad-based reform  
15 will enhance the consistency and predictability of regulatory  
16 processes and meet the goals necessary to serve New Mexico's  
17 people, communities, environment and businesses more  
18 efficiently and effectively; to identify strategies for  
19 improving the essential rulemaking and adjudicatory functions  
20 of state agencies in order to carry out legislative mandates  
21 effectively and efficiently; and to determine any necessary  
22 legislative action to improve administrative procedures and to  
23 develop a strategy and time frame for implementation; and

24 BE IT FURTHER RESOLVED that the administrative procedures  
25 task force be requested to report its findings and

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1 recommendations before October 1, 2010 to an appropriate  
2 legislative interim committee, the legislative finance  
3 committee and the governor; and

4 BE IT FURTHER RESOLVED that a written report of the task  
5 force's findings be posted for public access on the regulation  
6 and licensing department's web site; and

7 BE IT FURTHER RESOLVED that copies of this memorial be  
8 transmitted to the New Mexico legislative council, the  
9 superintendent of regulation and licensing, the secretary of  
10 taxation and revenue, the secretary of economic development,  
11 the secretary of environment, the secretary of energy, minerals  
12 and natural resources, the attorney general, the state bar of  
13 New Mexico, the university of New Mexico school of law, the  
14 administrative office of the courts and the governor.