

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

HOUSE BILL 66

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; REORGANIZING THE DEPARTMENT OF FINANCE AND ADMINISTRATION AND THE GENERAL SERVICES DEPARTMENT; CENTRALIZING ADMINISTRATIVE FUNCTIONS OF CERTAIN EXECUTIVE AGENCIES INTO THE DEPARTMENT OF FINANCE AND ADMINISTRATION; MOVING THE STATE PERSONNEL OFFICE AND THE PURCHASING DIVISION OF THE GENERAL SERVICES DEPARTMENT INTO THE DEPARTMENT OF FINANCE AND ADMINISTRATION; CREATING THE EXECUTIVE SERVICES BUREAU, STATE PERSONNEL DIVISION, PURCHASING DIVISION AND EDUCATIONAL FINANCE AND ACCOUNTABILITY DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION; ESTABLISHING QUALIFICATIONS FOR THE STATE PERSONNEL DIRECTOR; MAKING THE GENERAL SERVICES DEPARTMENT A NON-CABINET DEPARTMENT; TRANSFERRING APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

.182861.5

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

underscored material = new  
[bracketed material] = delete

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

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

4 "9-6-1. SHORT TITLE.--~~[Sections 1 through 7 of this act]~~  
5 Chapter 9, Article 6 NMSA 1978 may be cited as the "Department  
6 of Finance and Administration Act".

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

9 "9-6-2. PURPOSE.--The purpose of the Department of  
10 Finance and Administration Act is to make state government more  
11 efficient and responsive through consolidating, and eliminating  
12 the overlapping of, certain state government functions; and to  
13 establish a single, unified department to administer laws  
14 relating to finance and oversight of state government; and to  
15 perform other duties as provided by law."

16 SECTION 3. A new section of the Department of Finance and  
17 Administration Act is enacted to read:

18 "[NEW MATERIAL] DEFINITIONS.--As used in the Department of  
19 Finance and Administration Act:

20 A. "department" means the department of finance and  
21 administration; and

22 B. "secretary" means the secretary of finance and  
23 administration."

24 SECTION 4. Section 9-6-3 NMSA 1978 (being Laws 1977,  
25 Chapter 247, Section 3, as amended) is repealed and a new

underscored material = new  
[bracketed material] = delete

1 Section 9-6-3 NMSA 1978 is enacted to read:

2 "9-6-3. [NEW MATERIAL] DEPARTMENT OF FINANCE AND  
3 ADMINISTRATION--CREATED--DIVISIONS.--

4 A. The "department of finance and administration"  
5 is created as a cabinet department that includes the following  
6 organizational units:

- 7 (1) office of the secretary;
- 8 (2) administrative services division,  
9 including:
  - 10 (a) executive services bureau; and
  - 11 (b) capital outlay planning and  
12 monitoring bureau;
- 13 (3) board of finance division;
- 14 (4) educational finance and accountability  
15 division;
- 16 (5) financial control division;
- 17 (6) local government division;
- 18 (7) purchasing division, which includes the  
19 management and contracts review bureau;
- 20 (8) state budget division; and
- 21 (9) state personnel division.

22 B. The secretary may organize the department and  
23 the divisions specified in Subsection A of this section and may  
24 transfer or merge functions between divisions in the interest  
25 of efficiency and economy, but the secretary shall present the

.182861.5

underscored material = new  
[bracketed material] = delete

1 organization to the legislature for statutory revision. The  
2 secretary shall not create new divisions without the express  
3 authority of the legislature."

4 SECTION 5. A new section of Department of Finance and  
5 Administration Act is enacted to read:

6 "[NEW MATERIAL] ADMINISTRATIVELY ATTACHED AGENCIES.--The  
7 following agencies are administratively attached to the  
8 department:

- 9 A. the acequia commission;
- 10 B. the state board of finance;
- 11 C. the personnel board;
- 12 D. the New Mexico community development council;
- 13 E. the civil legal services commission; and
- 14 F. the land grant council."

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

17 "9-6-4. DEPARTMENT OF FINANCE AND ADMINISTRATION--  
18 SECRETARY--APPOINTMENT--QUALIFICATIONS.--The administrative and  
19 executive head of the department of finance and administration  
20 is the "secretary of finance and administration", who [~~shall~~  
21 ~~be~~] is a member of the executive cabinet. The secretary shall  
22 be appointed by the governor with the advice and consent of the  
23 senate. The secretary shall be well versed in governmental  
24 finance."

25 SECTION 7. Section 9-6-5 NMSA 1978 (being Laws 1977,

underscored material = new  
[bracketed material] = delete

1 Chapter 247, Section 5, as amended) is amended to read:

2 "9-6-5. SECRETARY--DUTIES AND GENERAL POWERS.--

3 A. The secretary is responsible to the governor for  
4 the operation of the department. It is [~~his~~] the secretary's  
5 duty to manage all operations of the department and to  
6 administer and enforce the laws with which [~~he~~] the secretary  
7 or the department is charged.

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

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

20 (2) delegate authority to subordinates as [~~he~~]  
21 the secretary deems necessary and appropriate, clearly  
22 delineating such delegated authority and the limitations  
23 [~~thereto~~] of that authority;

24 (3) organize the department into those  
25 organizational units [~~he~~] that the secretary deems will enable

.182861.5

underscored material = new  
[bracketed material] = delete

1 it to function most efficiently, subject to any provisions of  
2 law requiring or establishing specific organizational units;

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

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

14 (6) conduct research and studies that will  
15 improve the operations of the department and the provision of  
16 services to the citizens of the state;

17 (7) provide courses of instruction and  
18 practical training for employees of the department and other  
19 persons involved in the administration of programs with the  
20 objective of improving the operations and efficiency of  
21 administration;

22 (8) prepare an annual budget of the  
23 department;

24 (9) provide [~~cooperation, at the request of~~  
25 ~~heads of~~] administrative services to administratively attached

.182861.5

underscored material = new  
[bracketed material] = delete

1 agencies and cooperate with adjunct agencies in order to:

2 (a) minimize or eliminate duplication of  
3 services and jurisdictional conflicts; and

4 (b) coordinate activities and resolve  
5 problems of mutual concern [~~and~~

6 ~~(c) resolve by agreement the manner and~~  
7 ~~extent to which the department shall provide budgeting, record-~~  
8 ~~keeping and related clerical assistance to administratively~~  
9 ~~attached agencies];~~

10 (10) appoint, with the governor's consent, one  
11 "deputy secretary", and, for each division [~~and office~~], a  
12 "director". These appointed positions are exempt from the  
13 provisions of the Personnel Act. Persons appointed to these  
14 positions shall serve at the pleasure of the secretary; and

15 (11) serve as, or designate the deputy  
16 secretary to serve as, executive officer of the state board of  
17 finance

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

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

24 C. The secretary may apply for and receive, with  
25 the governor's approval, in the name of the department, any

.182861.5

underscored material = new  
[bracketed material] = delete

1 public or private funds, including ~~[but not limited to]~~ United  
2 States government funds, available to the department to carry  
3 out its programs, duties or services.

4 D. Where functions of departments overlap, or a  
5 function assigned to one department could ~~[better]~~ be performed  
6 better by another department, ~~[a]~~ the secretary may recommend  
7 appropriate legislation to the next session of the legislature  
8 for its approval.

9 E. The secretary may make and adopt such reasonable  
10 administrative and procedural rules ~~[and regulations]~~ as may be  
11 necessary to carry out the duties of the department and its  
12 divisions. No rule ~~[or regulation]~~ promulgated by the director  
13 of any division ~~[or office]~~ in carrying out the functions and  
14 duties of the division ~~[or office]~~ shall be effective until  
15 approved by the secretary unless otherwise provided by statute.  
16 Unless otherwise provided by statute, no ~~[regulation]~~ rule  
17 affecting any person or agency outside the department shall be  
18 adopted, amended or repealed without a public hearing on the  
19 proposed action before the secretary or a hearing officer  
20 designated by ~~[him]~~ the secretary. The public hearing shall be  
21 held in Santa Fe unless otherwise permitted by statute. Notice  
22 of the subject matter of the ~~[regulation]~~ rule, the action  
23 proposed to be taken, the time and place of the hearing, the  
24 manner in which interested persons may present their views and  
25 the method by which copies of the proposed ~~[regulation]~~ rule or

.182861.5



underscored material = new  
[bracketed material] = delete

1 proposed amendment or repeal of an existing [~~regulation~~] rule  
2 may be obtained shall be published once at least thirty days  
3 prior to the hearing date in a newspaper of general circulation  
4 and mailed at least thirty days prior to the hearing date to  
5 all persons who have made a written request for advance notice  
6 of hearing. All rules [~~and regulations~~] shall be filed in  
7 accordance with the State Rules Act."

8 SECTION 8. Section 9-6-5.1 NMSA 1978 (being Laws 1983,  
9 Chapter 296, Section 7) is amended to read:

10 "9-6-5.1. PLANNING POWERS AND DUTIES OF SECRETARY OF  
11 FINANCE AND ADMINISTRATION.--The secretary [~~of the department~~  
12 ~~of finance and administration~~], in addition to the other powers  
13 and duties conferred:

14 A. shall review federal grant applications and  
15 provide management assistance to other state agencies and local  
16 governments;

17 B. shall coordinate, in accordance with directives  
18 from the governor's office of policy and planning, state agency  
19 plans for economic, natural resource, energy resource and human  
20 resource development;

21 C. shall provide aid to planning and development  
22 districts in developing grant proposals and cooperate with  
23 other local entities in developing grant proposals;

24 D. shall acquire, study and review all plans for  
25 capital projects proposed by state agencies and render advice

.182861.5

underscored material = new  
[bracketed material] = delete

1 on the plans. The secretary shall maintain long-range  
2 estimates and plans for capital projects and develop standards  
3 for measuring the need for and utility of proposed projects;

4 E. may contract for, receive and utilize any grants  
5 or other financial assistance made available by the United  
6 States government or by any other source, public or private;

7 F. may provide planning and funding assistance to  
8 units of local government, council of government organizations,  
9 Indian tribal governments situated within New Mexico and ~~[to]~~  
10 nonprofit entities having for their purpose local, regional or  
11 community betterment. The secretary, incident to any such  
12 programs, may enter into contracts and agreements with such  
13 units of local government, council of government organizations,  
14 Indian tribal governments, nonprofit entities and the federal  
15 government and may participate in or receive aid from any  
16 federal or private program in relation to such a planning  
17 program or assistance;

18 G. shall confer with the state budget division of  
19 the department of finance and administration in developing  
20 comprehensive plans to assure coordination of planning and  
21 budgeting functions;

22 H. shall coordinate the state clearinghouse review  
23 process;

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

25 J. shall review and coordinate comment by state

.182861.5

underscored material = new  
[bracketed material] = delete

1 agencies on draft environmental impact statements;

2 K. shall provide community development block grant  
3 technical assistance to local governments;

4 L. shall administer, in consultation with and upon  
5 advice and direction from the community development block grant  
6 policy committee, the program for the state community  
7 development block grant program;

8 M. shall serve as staff to the New Mexico  
9 association of regional councils;

10 N. shall maintain a state planning library; and

11 O. shall provide planning assistance to county and  
12 multicounty districts relative to application by such districts  
13 for financial assistance and for regional plan development."

14 SECTION 9. Section 9-6-15 NMSA 1978 (being Laws 2003,  
15 Chapter 153, Section 69) is repealed and a new Section 9-6-15  
16 NMSA 1978 is enacted to read:

17 "9-6-15. [NEW MATERIAL] EDUCATIONAL FINANCE AND  
18 ACCOUNTABILITY DIVISION--DUTIES.--

19 A. The educational finance and accountability  
20 division shall monitor and oversee public school and higher  
21 education finances and budgets and provide an independent  
22 evaluation of how well the two public education systems are  
23 performing and how well the public education department and  
24 higher education department perform in holding those systems  
25 accountable to students, taxpayers and citizens.

.182861.5

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

1           B. The director of the division shall be skilled in  
2     accountancy and auditing and familiar with the operation of  
3     public school and post-secondary educational institution  
4     budgets and finances. The director shall be appointed by the  
5     secretary with the governor's consent.

6           C. The public education department, higher  
7     education department, school districts, public post-secondary  
8     educational institutions and other agencies of the state shall  
9     cooperate with the division and provide information as  
10    requested by the division.

11          D. In addition to overseeing and monitoring public  
12    school and post-secondary educational institution budgets and  
13    finances, the division shall conduct an ongoing evaluation of:

14               (1) the unified pre-kindergarten through  
15    post-graduate education accountability data system;

16               (2) for public schools, how well the public  
17    education department monitors public schools and compliance  
18    with the Public School Code, including the Assessment and  
19    Accountability Act, in particular the success of interventions  
20    made for schools in need of improvement; the School Personnel  
21    Act, in particular the three-tiered licensing system for  
22    teachers and school administrators and the evaluation system  
23    that is required for continued licensure; the Compulsory School  
24    Attendance Law; compliance with the Audit Act; implementation  
25    of federal laws, including the Individuals with Disabilities

.182861.5

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

1 Education Act; and other requirements and measures intended to  
2 improve the administration and delivery of public education and  
3 improve outputs and outcomes, including decreasing dropout  
4 rates, increasing graduation rates, preparing students for  
5 college or careers and decreasing the need for remediation in  
6 higher education;

7 (3) for higher education, how well the higher  
8 education department monitors post-secondary educational  
9 institutions; the Post-Secondary Education Articulation Act;  
10 the use of common student identification numbers and  
11 participation in the unified pre-kindergarten through post-  
12 graduate education accountability system; higher education  
13 department annual accountability reports; the review process by  
14 the higher education department and the state board of finance  
15 regarding capital expenditures; the system of accounting and  
16 reporting provided for in Section 21-1-33 NMSA 1978; and other  
17 requirements and measures intended to improve the  
18 administration and delivery of post-secondary education and  
19 improve outputs and outcomes, including decreasing dropout  
20 rates, increasing graduation rates, particularly baccalaureate  
21 graduation within four or five years, and preparing students  
22 for professional or vocational careers; and

23 (4) any other matters related to pre-  
24 kindergarten through post-graduate education assigned to it by  
25 the legislature or the secretary."

.182861.5

underscored material = new  
[bracketed material] = delete

1           SECTION 10. A new section of the Department of Finance  
2 and Administration Act is enacted to read:

3           "[NEW MATERIAL] EXECUTIVE SERVICES BUREAU--DUTIES.--The  
4 executive services bureau shall provide budgeting,  
5 recordkeeping and related administrative and clerical  
6 assistance for those small agencies of the executive branch  
7 that have twenty or fewer full-time equivalents or a budget of  
8 one million dollars (\$1,000,000) or less."

9           SECTION 11. A new section of the General Services  
10 Department Act is enacted to read:

11           "[NEW MATERIAL] DEFINITIONS.--As used in the General  
12 Services Department Act:

13           A. "department" means the general services  
14 department; and

15           B. "superintendent" means the superintendent of  
16 general services."

17           SECTION 12. Section 9-17-3 NMSA 1978 (being Laws 1983,  
18 Chapter 301, Section 3, as amended) is amended to read:

19           "9-17-3. GENERAL SERVICES DEPARTMENT--CREATION--TRANSFER  
20 AND MERGER OF DIVISION FUNCTIONS--MERGER [~~AND CREATION~~] OF  
21 DIVISIONS.--

22           A. The "general services department" is created as  
23 a non-cabinet department. The department shall consist of  
24 those divisions created by law or executive order, [~~as modified~~  
25 ~~by executive order pursuant to Subsection C of this section~~]

.182861.5

underscored material = new  
[bracketed material] = delete

1 including:

- 2 (1) the administrative services division;  
3 (2) the building services division;  
4 (3) the property control division;  
5 [~~4~~] (4) the risk management division; and  
6 [~~5~~] (5) the transportation services  
7

8 division, including:

- 9 (a) the state aviation bureau; and  
10 (b) the surplus property bureau.

11 B. The [~~secretary of general services~~]  
12 superintendent is empowered to organize the department and the  
13 divisions specified in Subsection A of this section and may  
14 transfer or merge functions between divisions and may merge  
15 divisions in the interest of efficiency and economy.

16 [~~G. The governor is empowered to merge divisions of~~  
17 ~~the department or to create additional divisions by executive~~  
18 ~~order in the interest of efficiency or economy.]"~~

19 SECTION 13. Section 9-17-4 NMSA 1978 (being Laws 1983,  
20 Chapter 301, Section 4) is amended to read:

21 "9-17-4. GENERAL SERVICES DEPARTMENT--~~[SECRETARY]~~  
22 SUPERINTENDENT--APPOINTMENT--QUALIFICATIONS.--The  
23 administrative and executive head of the general services  
24 department is the "~~[secretary]~~ superintendent of general  
25 services" [~~who shall be a member of the executive cabinet~~].

.182861.5

underscored material = new  
[bracketed material] = delete

1 The ~~[secretary]~~ superintendent shall be appointed by the  
2 governor with the advice and consent of the senate. The  
3 ~~[secretary]~~ superintendent shall be well versed in  
4 administrative services and management."

5 SECTION 14. Section 9-17-5 NMSA 1978 (being Laws 1983,  
6 Chapter 301, Section 5) is amended to read:

7 "9-17-5. ~~[SECRETARY]~~ SUPERINTENDENT--DUTIES AND GENERAL  
8 POWERS.--

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

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

22 (1) except as otherwise provided in the  
23 General Services Department Act, exercise general supervisory  
24 and appointing authority over all department employees, subject  
25 to any applicable personnel laws and ~~[regulations]~~ rules;

.182861.5



underscored material = new  
[bracketed material] = delete

1 (2) delegate authority to subordinates as [~~he~~]  
2 the superintendent deems necessary and appropriate, clearly  
3 delineating such delegated authority and the limitations  
4 thereto;

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

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

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

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

23 (7) provide courses of instruction and  
24 practical training for employees of the department and to other  
25 persons involved in the administration of programs, with the

.182861.5

underscored material = new  
[bracketed material] = delete

1 objective of improving the operations and efficiency of  
2 administration;

3 (8) prepare the department's annual budget;

4 (9) cooperate with the heads of  
5 administratively attached agencies, and adjunct agencies, at  
6 their request, in order to:

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

9 (b) coordinate activities and resolve  
10 problems of mutual concern; and

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

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

21 [~~(11) give bond as provided in the Surety Bond  
22 Act. The department shall pay the cost of such bond; and~~

23 (12) ~~require faithful performance or other  
24 fidelity bonds of such department employees and officers as he  
25 deems necessary, as provided in the Surety Bond Act. The~~

.182861.5

underscored material = new  
[bracketed material] = delete

1 ~~department shall pay the cost of such bonds].~~

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

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

12 E. The [~~secretary~~] superintendent may make and  
13 adopt such reasonable administrative and procedural rules [~~and~~  
14 ~~regulations~~] as may be necessary to carry out the duties of the  
15 department and its divisions. No rule [~~or regulation~~]  
16 promulgated by the director of any division in carrying out the  
17 functions and duties of the division shall be effective until  
18 approved by the [~~secretary~~] superintendent unless otherwise  
19 provided by statute. Unless otherwise provided by statute, no  
20 [~~regulation~~] rule affecting any person or agency outside the  
21 department shall be adopted, amended or repealed without a  
22 public hearing on the proposed action before the [~~secretary~~]  
23 superintendent or a hearing officer designated by [~~him~~] the  
24 superintendent. The public hearing shall be held in Santa Fe  
25 unless otherwise permitted by statute. Notice of the subject

.182861.5

underscoring material = new  
[bracketed material] = delete

1 matter of the [~~regulation~~] rule, the action proposed to be  
2 taken, the time and place of the hearing, the manner in which  
3 interested persons may present their views and the method by  
4 which copies of the proposed [~~regulation~~] rule or proposed  
5 amendment or repeal of an existing [~~regulation~~] rule may be  
6 obtained shall be published once at least thirty days prior to  
7 the hearing date in a newspaper of general circulation in the  
8 state and mailed at least thirty days prior to the hearing date  
9 to all persons who have made written request for advance notice  
10 of hearing. All rules [~~and regulations~~] shall be filed in  
11 accordance with the State Rules Act."

12 SECTION 15. Section 10-9-3 NMSA 1978 (being Laws 1961,  
13 Chapter 240, Section 3) is amended to read:

14 "10-9-3. DEFINITIONS.--As used in the Personnel Act:

15 A. "director" means the state personnel director;

16 B. "division" means the state personnel division of  
17 the department of finance and administration;

18 [~~B-~~] C. "board" means the personnel board;

19 [~~G-~~] D. "service" means the state personnel service  
20 created by the Personnel Act and includes all positions covered  
21 by the Personnel Act;

22 [~~D-~~] E. "position" means any state office, job or  
23 position of employment;

24 [~~E-~~] F. "employer" means any authority having power  
25 to fill positions in an agency;

.182861.5

underscored material = new  
[bracketed material] = delete

1           ~~[F.]~~ G. "agency" means any state department,  
2 bureau, division, branch or administrative group ~~[which]~~ that  
3 is under the same employer;

4           ~~[G.]~~ H. "class" means a group of positions similar  
5 enough in powers and responsibilities that they can be covered  
6 by the same qualifications and rate of pay;

7           ~~[H.]~~ I. "test" means a test of the qualifications,  
8 fitness and ability and includes tests that are written, oral,  
9 physical or in the form of a demonstration of skill or any  
10 combination thereof;

11           ~~[I.]~~ J. "employee" means a person in a position in  
12 the service who has completed ~~[his]~~ the probationary period for  
13 that position; and

14           ~~[J.]~~ K. "probationer" means a person in a position  
15 in the service who is still in the probationary period for that  
16 position."

17           SECTION 16. Section 10-9-10 NMSA 1978 (being Laws 1961,  
18 Chapter 240, Section 7, as amended) is amended to read:

19           "10-9-10. BOARD DUTIES.--The board shall:

20           ~~[A. promulgate regulations to effectuate the~~  
21 ~~Personnel Act;~~

22           ~~B.]~~ A. hear appeals and make recommendations to  
23 employers;

24           ~~[C. hire, with the approval of the governor, a~~  
25 ~~director experienced in the field of personnel administration;~~

underscored material = new  
[bracketed material] = delete

1           ~~D. review budget requests prepared by the director~~  
2 ~~for the operation of the personnel program and make appropriate~~  
3 ~~recommendations thereon;~~

4           ~~E. make investigations, studies and audits~~  
5 ~~necessary to the proper administration of the Personnel Act;~~

6           ~~F.]~~ B. make an annual report to the governor at the  
7 end of each fiscal year; and

8           ~~[G. establish and maintain liaison with the general~~  
9 ~~services department; and~~

10           ~~H.]~~ C. represent the public interest in the  
11 improvement of personnel administration in the system."

12           SECTION 17. A new section of the Personnel Act is enacted  
13 to read:

14           "[NEW MATERIAL] STATE PERSONNEL DIRECTOR--  
15 QUALIFICATIONS--CONFIRMATION.--The "state personnel director"  
16 of the state personnel division of the department of finance  
17 and administration shall be a person of recognized character  
18 and ability appointed by the secretary of finance and  
19 administration based solely on the director's qualifications  
20 for the position without regard to political affiliation. The  
21 director shall have at least a master's degree in human  
22 resource management or public or business administration or a  
23 related field and at least seven years' progressive experience  
24 in applying the principles, methods and techniques of personnel  
25 administration. The state personnel director shall be

.182861.5

underscored material = new  
[bracketed material] = delete

1 confirmed by the senate."

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

4 "10-9-12. DIRECTOR DUTIES.--The director shall:

5 A. supervise all administrative and technical  
6 personnel activities of the state;

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

8 ~~G.] B. establish, maintain and publish annually a  
9 roster of all employees of the state showing for each employee  
10 [~~his~~] the employee's division, title, pay rate and other  
11 pertinent data;~~

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

13 [~~E. recommend to the board]~~

14 D. promulgate rules [~~he~~] that the director  
15 considers necessary or desirable to effectuate the Personnel  
16 Act; and

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

19 SECTION 19. Section 10-9-13 NMSA 1978 (being Laws 1961,  
20 Chapter 240, Section 9, as amended) is amended to read:

21 "10-9-13. RULES--ADOPTION--COVERAGE.--Rules promulgated  
22 by the [~~board~~] division shall be effective when filed as  
23 required by law. The rules shall provide, among other things,  
24 for:

25 A. a classification plan for all positions in the

.182861.5

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

1 service;

2 B. a pay plan for all positions in the service;

3 C. competitive entrance and promotion tests to  
4 determine the qualifications, fitness and ability of applicants  
5 to perform the duties of the position for which they apply.

6 Such rules shall also provide for the awarding to those  
7 applicants having a passing grade of two preference points for  
8 each year of residency in New Mexico not to exceed a total of  
9 ten preference points;

10 D. exemption from competitive entrance tests for  
11 those professional persons applying for classified positions in  
12 the service who possess recognized registration or  
13 certification by another state agency;

14 E. a period of probation of one year during which a  
15 probationer may be discharged or demoted or returned to the  
16 eligible list without benefit of hearing;

17 F. the establishment of employment lists for the  
18 certification of the highest standing candidates to the  
19 prospective employers and procedure to be followed in hiring  
20 from the lists;

21 G. hours of work, holiday and leave;

22 H. dismissal or demotion procedure for employees in  
23 the service, including presentation of written notice stating  
24 specific reasons and time for the employees to reply thereto,  
25 in writing, and appeals to the board;

.182861.5



underscored material = new  
[bracketed material] = delete

1 I. the rejection of applicants who fail to meet  
2 reasonable requirements as to age, physical condition,  
3 training, experience or moral conduct; and

4 J. employment of any apparently qualified applicant  
5 for a period of not more than ninety days when an emergency  
6 condition exists and there are no applicants available on an  
7 appropriate employment list as provided in Subsection F of this  
8 section. The applicant, if employed, shall be paid at the same  
9 rate as a comparable position covered by the Personnel Act."

10 SECTION 20. Section 10-9-21 NMSA 1978 (being Laws 1961,  
11 Chapter 240, Section 15, as amended) is amended to read:

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

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

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

underscored material = new  
[bracketed material] = delete

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

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

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

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

17 F. No employee or probationer shall engage in  
18 partisan political activity while on duty.

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

24 SECTION 21. Section 10-9-23 NMSA 1978 (being Laws 1961,  
25 Chapter 240, Section 17) is amended to read:

.182861.5

underscored material = new  
[bracketed material] = delete

1 "10-9-23. PENALTIES.--Any person [~~wilfully~~] willfully  
2 violating any provision of the Personnel Act or the rules of  
3 the [~~board~~] division is guilty of a misdemeanor. In addition  
4 to the criminal penalties, a person found guilty of a  
5 misdemeanor under the Personnel Act is ineligible for  
6 appointment to or employment in a position in the service and  
7 forfeits [~~his~~] the person's office or position."

8 SECTION 22. Section 10-9-24 NMSA 1978 (being Laws 1961,  
9 Chapter 240, Section 18) is amended to read:

10 "10-9-24. EXISTING RULES.--Existing personnel rules,  
11 policies and pay plans for employees of the state as of July 1,  
12 2011 shall govern until new rules, policies and pay plans are  
13 established under the Personnel Act."

14 SECTION 23. Section 13-1-37 NMSA 1978 (being Laws 1984,  
15 Chapter 65, Section 10) is amended to read:

16 "13-1-37. DEFINITION--CENTRAL PURCHASING OFFICE.--  
17 "Central purchasing office" means that office or officer within  
18 a state agency or a local public body responsible for the  
19 control of procurement of items of tangible personal property,  
20 services or construction. "Central purchasing office" includes  
21 the purchasing division of the [~~general services~~] department of  
22 finance and administration and the state purchasing agent."

23 SECTION 24. Section 13-1-86 NMSA 1978 (being Laws 1984,  
24 Chapter 65, Section 59) is amended to read:

25 "13-1-86. DEFINITION--SECRETARY.--"Secretary" means the

underscored material = new  
[bracketed material] = delete

1 secretary of [~~general services~~] finance and administration."

2 SECTION 25. Section 13-1-90 NMSA 1978 (being Laws 1984,  
3 Chapter 65, Section 63) is amended to read:

4 "13-1-90. DEFINITION--STATE AGENCY.--"State agency" means  
5 any department, commission, council, board, committee,  
6 institution, legislative body, agency, government corporation,  
7 educational institution or official of the executive,  
8 legislative or judicial branch of the government of this state.  
9 "State agency" includes the purchasing division of the [~~general~~  
10 ~~services~~] department of finance and administration and the  
11 state purchasing agent but does not include local public  
12 bodies."

13 SECTION 26. Section 13-1-92 NMSA 1978 (being Laws 1984,  
14 Chapter 65, Section 65) is amended to read:

15 "13-1-92. DEFINITION--STATE PURCHASING AGENT.--"State  
16 purchasing agent" means the director of the purchasing division  
17 of the [~~general services~~] department of finance and  
18 administration."

19 SECTION 27. Section 13-1-95 NMSA 1978 (being Laws 1984,  
20 Chapter 65, Section 68) is amended to read:

21 "13-1-95. PURCHASING DIVISION--CREATION--DIRECTOR IS  
22 STATE PURCHASING AGENT--APPOINTMENT--DUTIES.--

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

25 B. Subject to the authority of the secretary, the

underscored material = new  
[bracketed material] = delete

1 state purchasing agent shall be the administrator and [~~chief~~  
2 ~~executive~~] director of the purchasing division. The state  
3 purchasing agent shall be appointed by the secretary with the  
4 approval of the governor.

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

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

14 (1) recommend procurement [~~regulations~~] rules  
15 to the secretary;

16 (2) establish and maintain programs for the  
17 development and use of procurement specifications and for the  
18 inspection, testing and acceptance of services, construction  
19 and items of tangible personal property;

20 (3) cooperate with the state budget division  
21 of the department [~~of finance and administration~~] in the  
22 preparation of statistical data concerning the acquisition and  
23 usage of all services, construction and items of tangible  
24 personal property by state agencies;

25 (4) require state agencies to furnish reports

.182861.5

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

1 concerning usage, needs and stocks on hand of items of tangible  
2 personal property and usage and needs for services or  
3 construction;

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

8 (6) provide information to state agencies and  
9 local public bodies concerning the development of  
10 specifications, quality control methods and other procurement  
11 information; and

12 (7) collect information concerning procurement  
13 matters, quality and quality control of commonly used services,  
14 construction and items of tangible personal property.

15 E. The state purchasing agent shall, upon the  
16 request of the central purchasing office of a local public  
17 body, procure a price agreement for the requested services,  
18 construction or items of tangible personal property."

19 **SECTION 28.** Section 13-1-97.1 NMSA 1978 (being Laws 2009,  
20 Chapter 107, Section 1) is amended to read:

21 "13-1-97.1. CONTRACT DATABASE.--

22 A. The department of finance and administration,  
23 the department of information technology, the department of  
24 transportation and the general services department shall  
25 jointly develop a database of all state contracts with a term

.182861.5

underscored material = new  
[bracketed material] = delete

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

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

16 SECTION 29. Section 13-1-98 NMSA 1978 (being Laws 1984,  
17 Chapter 65, Section 71, as amended) is amended to read:

18 "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
19 provisions of the Procurement Code shall not apply to:

20 A. procurement of items of tangible personal  
21 property or services by a state agency or a local public body  
22 from a state agency, a local public body or external  
23 procurement unit except as otherwise provided in Sections  
24 13-1-135 through 13-1-137 NMSA 1978;

25 B. procurement of tangible personal property or

.182861.5

underscored material = new  
[bracketed material] = delete

1 services for the governor's mansion and grounds;

2 C. printing and duplicating contracts involving  
3 materials that are required to be filed in connection with  
4 proceedings before administrative agencies or state or federal  
5 courts;

6 D. purchases of publicly provided or publicly  
7 regulated gas, electricity, water, sewer and refuse collection  
8 services;

9 E. purchases of books and periodicals from the  
10 publishers or copyright holders thereof;

11 F. travel or shipping by common carrier or by  
12 private conveyance or to meals and lodging;

13 G. purchase of livestock at auction rings or to the  
14 procurement of animals to be used for research and  
15 experimentation or exhibit;

16 H. contracts with businesses for public school  
17 transportation services;

18 I. procurement of tangible personal property or  
19 services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978,  
20 by the corrections industries division of the corrections  
21 department pursuant to rules adopted by the corrections  
22 industries commission, which shall be reviewed by the  
23 purchasing division of the [~~general services~~] department of  
24 finance and administration prior to adoption;

25 J. minor purchases not exceeding five thousand

.182861.5



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

1 dollars (\$5,000) consisting of magazine subscriptions,  
2 conference registration fees and other similar purchases where  
3 prepayments are required;

4 K. municipalities having adopted home rule charters  
5 and having enacted their own purchasing ordinances;

6 L. the issuance, sale and delivery of public  
7 securities pursuant to the applicable authorizing statute, with  
8 the exception of bond attorneys and general financial  
9 consultants;

10 M. contracts entered into by a local public body  
11 with a private independent contractor for the operation, or  
12 provision and operation, of a jail pursuant to Sections  
13 33-3-26 and 33-3-27 NMSA 1978;

14 N. contracts for maintenance of grounds and  
15 facilities at highway rest stops and other employment  
16 opportunities, excluding those intended for the direct care and  
17 support of persons with handicaps, entered into by state  
18 agencies with private, nonprofit, independent contractors who  
19 provide services to persons with handicaps;

20 O. contracts and expenditures for services or items  
21 of tangible personal property to be paid or compensated by  
22 money or other property transferred to New Mexico law  
23 enforcement agencies by the United States department of justice  
24 drug enforcement administration;

25 P. contracts for retirement and other benefits

.182861.5

underscoring material = new  
[bracketed material] = delete

1 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

2 Q. contracts with professional entertainers;

3 R. contracts and expenditures for litigation  
4 expenses in connection with proceedings before administrative  
5 agencies or state or federal courts, including experts,  
6 mediators, court reporters, process servers and witness fees,  
7 but not including attorney contracts;

8 S. contracts for service relating to the design,  
9 engineering, financing, construction and acquisition of public  
10 improvements undertaken in improvement districts pursuant to  
11 Subsection L of Section 3-33-14.1 NMSA 1978 and in county  
12 improvement districts pursuant to Subsection L of Section  
13 4-55A-12.1 NMSA 1978;

14 T. works of art for museums or for display in  
15 public buildings or places;

16 U. contracts entered into by a local public body  
17 with a person, firm, organization, corporation or association  
18 or a state educational institution named in Article 12, Section  
19 11 of the constitution of New Mexico for the operation and  
20 maintenance of a hospital pursuant to Chapter 3, Article 44  
21 NMSA 1978, lease or operation of a county hospital pursuant to  
22 the Hospital Funding Act or operation and maintenance of a  
23 hospital pursuant to the Special Hospital District Act;

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

.182861.5

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

1           W. purchases of promotional goods intended for  
2 resale by the tourism department;

3           X. procurement of printing services for materials  
4 produced and intended for resale by the cultural affairs  
5 department;

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

16           Z. procurement of services from community  
17 rehabilitation programs or qualified individuals pursuant to  
18 the State Use Act;

19           AA. purchases of products or services for eligible  
20 persons with disabilities pursuant to the federal  
21 Rehabilitation Act of 1973;

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

.182861.5

underscored material = new  
[bracketed material] = delete

1 CC. contracts for investment advisory services,  
2 investment management services or other investment-related  
3 services entered into by the educational retirement board, the  
4 state investment officer or the retirement board created  
5 pursuant to the Public Employees Retirement Act;

6 DD. the purchase for resale by the state fair  
7 commission of feed and other items necessary for the upkeep of  
8 livestock; and

9 EE. contracts entered into by the crime victims  
10 reparation commission to distribute federal grants to assist  
11 victims of crime, including grants from the federal Victims of  
12 Crime Act and the federal Violence Against Women Act."

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

15 "13-1-125. SMALL PURCHASES.--

16 A. A central purchasing office shall procure  
17 services, construction or items of tangible personal property  
18 having a value not exceeding twenty thousand dollars (\$20,000)  
19 in accordance with the applicable small purchase [~~regulations~~]  
20 rules adopted by the secretary, a local public body or a  
21 central purchasing office that has the authority to issue  
22 [~~regulations~~] rules.

23 B. Notwithstanding the requirements of Subsection A  
24 of this section, a central purchasing office may procure  
25 professional services having a value not exceeding fifty

.182861.5

underscored material = new  
[bracketed material] = delete

1 thousand dollars (\$50,000), excluding applicable state and  
2 local gross receipts taxes, except for the services of  
3 landscape architects or surveyors for state public works  
4 projects or local public works projects, in accordance with  
5 professional services procurement [~~regulations~~] rules  
6 promulgated by the department of finance and administration  
7 [~~the general services department~~] or a central purchasing  
8 office with the authority to issue [~~regulations~~] rules.

9 C. Notwithstanding the requirements of Subsection A  
10 of this section, a state agency or a local public body may  
11 procure services, construction or items of tangible personal  
12 property having a value not exceeding ten thousand dollars  
13 (\$10,000) by issuing a direct purchase order to a contractor  
14 based upon the best obtainable price.

15 D. Procurement requirements shall not be  
16 artificially divided so as to constitute a small purchase under  
17 this section."

18 SECTION 31. Section 13-1-135.1 NMSA 1978 (being Laws  
19 1995, Chapter 60, Section 2) is amended to read:

20 "13-1-135.1. RECYCLED CONTENT GOODS--COOPERATIVE  
21 PROCUREMENT.--

22 A. Beginning July 1, 1995, each central purchasing  
23 office shall, whenever its price, quality, quantity,  
24 availability and delivery requirements are met, purchase  
25 recycled content goods through contracts established by the

.182861.5

underscored material = new  
[bracketed material] = delete

1 purchasing division of the [~~general services~~] department of  
2 finance and administration or with other central purchasing  
3 offices.

4 B. For purposes of this section, "recycled content  
5 goods" means supplies and materials composed in whole or in  
6 part of recycled materials; provided that the recycled  
7 materials content meets or exceeds the minimum content  
8 standards required by bid specifications."

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

11 "13-1-136. COOPERATIVE PROCUREMENT--REPORTS REQUIRED.--  
12 The [~~general services department and the department of finance  
13 and administration shall notify the~~] state purchasing agent  
14 shall notify the secretary of finance and administration on or  
15 before January 1 of each year of the cooperative procurement  
16 agreements entered into by state agencies with local public  
17 bodies or external procurement units during the preceding  
18 fiscal year."

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

21 "13-1C-3. DEFINITIONS.--As used in the State Use Act:

22 A. "central nonprofit agency" means a nonprofit  
23 agency approved pursuant to rules of the council to facilitate  
24 the equitable distribution of orders for the services of:

25 (1) qualified individuals; and

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

1 (2) community rehabilitation programs;

2 B. "community rehabilitation program" means a  
3 nonprofit entity:

4 (1) that is organized under the laws of the  
5 United States or this state, operated in the interest of  
6 persons with disabilities and operated so that no part of the  
7 income of which inures to the benefit of any shareholder or  
8 other person;

9 (2) that complies with applicable occupational  
10 health and safety standards as required by federal or state  
11 law; and

12 (3) that, in the provision of services,  
13 whether or not procured under the State Use Act, employs during  
14 the state fiscal year at least seventy-five percent persons  
15 with disabilities in direct labor for the provision of  
16 services;

17 C. "council" means the New Mexico council for  
18 purchasing from persons with disabilities;

19 D. "direct labor" means all work directly relating  
20 to the provision of services, but not work required for or  
21 relating to supervision, administration or inspection;

22 E. "local public body" means a political  
23 subdivision of the state and the political subdivision's  
24 agencies, instrumentalities and institutions;

25 F. "persons with disabilities" means persons who

.182861.5

underscored material = new  
[bracketed material] = delete

1 have a mental or physical impairment that constitutes or  
2 results in a substantial impediment to employment as defined by  
3 the federal Rehabilitation Act of 1973;

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

17 H. "state agency" means a department, commission,  
18 council, board, committee, institution, legislative body,  
19 agency, government corporation, educational institution or  
20 official of the executive, legislative or judicial branch of  
21 government of this state; and

22 I. "state purchasing agent" means the director of  
23 the purchasing division of the [~~general services~~] department of  
24 finance and administration."

25 SECTION 34. Section 15-3A-2 NMSA 1978 (being Laws 1989,

.182861.5



underscored material = new  
[bracketed material] = delete

1 Chapter 363, Section 2) is amended to read:

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

3 A. The [~~governor's residence advisory commission~~]  
4 general services department shall:

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

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

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

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

24 B. The [~~commission~~] department may:

25 (1) [~~utilize~~] use the assistance of

underscored material = new  
[bracketed material] = delete

1 individuals, [~~the general services department~~] other state  
2 agencies and nonprofit charitable corporations in carrying out  
3 its duties;

4 (2) accept on behalf of the state from any  
5 private or other public sources, money, gifts, donations and  
6 bequests [~~for use by the commission~~] in carrying out its  
7 duties; and

8 (3) enter into public promotions of its  
9 endeavors and publish such materials as it deems appropriate  
10 [~~to promote the purposes of the commission~~]."

11 SECTION 35. Section 15-3A-3 NMSA 1978 (being Laws 1989,  
12 Chapter 363, Section 3) is amended to read:

13 "15-3A-3. TRUST FUND CREATED.--There is created in the  
14 state treasury a permanent trust fund [~~which~~] that shall be  
15 known as the "governor's residence preservation fund". The  
16 fund shall consist of all gifts, donations and bequests of  
17 money to the [~~governor's residence advisory commission~~] fund as  
18 well as any appropriations made to the [~~commission~~] fund.  
19 Earnings from the investment of the fund shall be credited to  
20 the fund. Expenditure [~~of~~] from the fund [~~shall be only for~~  
21 ~~the purposes for which the commission was created and~~] shall be  
22 [~~paid to the commission~~] made upon vouchers signed by the  
23 [~~chairman of the commission~~] secretary of general services and  
24 warrants issued by the secretary of finance and  
25 administration."

.182861.5

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

1           **SECTION 36. TEMPORARY PROVISION--TRANSFERS OF PROPERTY,**  
2           **CONTRACTUAL OBLIGATIONS AND STATUTORY PROVISIONS--STATE**  
3           **PERSONNEL OFFICE TO DEPARTMENT OF FINANCE AND ADMINISTRATION--**  
4           **RULES AND STATUTORY REVIEW REQUIRED.--**

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

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

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

16          D. Rules of the personnel board shall be deemed to  
17          be rules of the state personnel division of the department of  
18          finance and administration until amended or repealed. The  
19          department shall review the state personnel rules and statutes  
20          pertaining to state personnel within one year of the effective  
21          date of this act and shall report to the governor and the  
22          legislature on changes that are necessary to make the state  
23          personnel system equitable, effective, responsive and  
24          accountable for a modern, well-qualified and responsible state  
25          work force. Rules that are in conflict with state law shall be

.182861.5

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

1 repealed or shall be suspended until the legislature has been  
2 given the opportunity to change the law.

3 SECTION 37. TEMPORARY PROVISION--TRANSFERS OF PROPERTY,  
4 CONTRACTUAL OBLIGATIONS AND STATUTORY PROVISIONS--PURCHASING  
5 DIVISION TO DEPARTMENT OF FINANCE AND ADMINISTRATION--RULES AND  
6 STATUTORY REVIEW REQUIRED.--

7 A. On the effective date of this act, all  
8 functions, appropriations, money, records, furniture, equipment  
9 and other property of the purchasing division of the general  
10 services department are transferred to the department of  
11 finance and administration.

12 B. On the effective date of this act, contractual  
13 obligations of the purchasing division of the general services  
14 department shall be binding on the department of finance and  
15 administration.

16 C. On the effective date of this act, statutory  
17 references to the purchasing division of the general services  
18 department shall be deemed to be references to the purchasing  
19 division of the department of finance and administration.

20 D. Rules of the purchasing division of the general  
21 services department pertaining to purchasing shall be deemed to  
22 be rules of the department of finance and administration until  
23 amended or repealed. The department of finance and  
24 administration shall review the procurement rules and statutes  
25 pertaining to procurement within one year of the effective date

.182861.5

underscored material = new  
[bracketed material] = delete

1 of this act and shall report to the governor and the  
2 legislature on changes that are necessary to make the  
3 procurement system more efficient, cost-effective, streamlined  
4 and accountable. Rules that are in conflict with state law  
5 shall be repealed or shall be suspended until the legislature  
6 has been given the opportunity to change the law.

7 SECTION 38. TEMPORARY PROVISION--STATUTORY REFERENCES TO  
8 SECRETARY OF GENERAL SERVICES.--On the effective date of this  
9 act, statutory references to the secretary of general services  
10 shall be deemed to be references to the superintendent of  
11 general services.

12 SECTION 39. REPEAL.--Sections 9-17-6, 10-9-11 and 15-3A-1  
13 NMSA 1978 (being Laws 1983, Chapter 301, Section 6, Laws 1977,  
14 Chapter 247, Section 47 and Laws 1989, Chapter 363, Section 1,  
15 as amended) are repealed.

16 SECTION 40. CONTINGENT RECOMPILATION.--If Sections 9-6-12  
17 through 9-6-14 NMSA 1978 (being Laws 2003, Chapter 126,  
18 Sections 1 through 3) are not repealed by another act of the  
19 first session of the fiftieth legislature, the compiler is  
20 instructed to recompile those sections in the Cultural Affairs  
21 Department Act or other suitable location in the NMSA 1978.

22 SECTION 41. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2011.