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HOUSE BILL 594

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

INTRODUCED BY

David L. Doyle

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; CHANGING THE ROLE OF THE  
CONSTRUCTION INDUSTRIES COMMISSION; GRANTING RULEMAKING  
AUTHORITY TO THE CONSTRUCTION INDUSTRIES DIVISION OF THE  
REGULATION AND LICENSING DEPARTMENT FOR ITSELF AND ITS BUREAUS;  
INCREASING QUALIFICATIONS OF THE DIRECTOR; PROVIDING GREATER  
OVERSIGHT BY THE REGULATION AND LICENSING DEPARTMENT; REPEALING  
SECTIONS OF LAW THAT EXEMPT THE CONSTRUCTION INDUSTRIES  
COMMISSION FROM THE AUTHORITY OF THE SUPERINTENDENT OF  
REGULATION AND LICENSING; INCREASING FEES AND PENALTIES;  
AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

**SECTION 1.** Section 9-16-8 NMSA 1978 (being Laws 1983,  
Chapter 297, Section 24, as amended) is amended to read:

"9-16-8. BUREAUS--CHIEFS.--The superintendent shall

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1 establish within each division such "bureaus" as [~~he~~] the  
2 superintendent deems necessary to carry out the provisions of  
3 the Regulation and Licensing Department Act. [~~He~~] The  
4 superintendent shall appoint a "chief" to be the administrative  
5 head of any such bureau. [~~The positions so appointed may be~~  
6 ~~exempted from the Personnel Act by action of the~~  
7 ~~superintendent, except for the construction industries division~~  
8 ~~trade bureaus created pursuant to Section 60-13-31 NMSA 1978.~~  
9 ~~The chiefs of those bureaus shall be covered positions under~~  
10 ~~the Personnel Act.]"~~

11 SECTION 2. Section 22-24-4.1 NMSA 1978 (being Laws 2001,  
12 Chapter 338, Section 6, as amended) is amended to read:

13 "22-24-4.1. OUTSTANDING DEFICIENCIES--ASSESSMENT--  
14 CORRECTION.--

15 A. No later than September 1, 2001, the council  
16 shall define and develop guidelines, consistent with the codes  
17 adopted by the construction industries [~~commission~~] division of  
18 the regulation and licensing department pursuant to the  
19 Construction Industries Licensing Act, for school districts to  
20 use to identify outstanding serious deficiencies in public  
21 school buildings and grounds, including buildings and grounds  
22 of charter schools, that may adversely affect the health or  
23 safety of students and school personnel.

24 B. A school district shall use these guidelines to  
25 complete a self-assessment of the outstanding health or safety

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1 deficiencies within the school district and provide cost  
2 projections to correct the outstanding deficiencies.

3 C. The council shall develop a methodology for  
4 prioritizing projects that will correct the deficiencies.

5 D. After a public hearing and to the extent that  
6 money is available in the fund for such purposes, the council  
7 shall approve allocations from the fund on the established  
8 priority basis and, working with the school district and  
9 pursuant to the Procurement Code, enter into construction  
10 contracts with contractors to correct the deficiencies.

11 E. In entering into construction contracts to  
12 correct deficiencies pursuant to this section, the council  
13 shall include such terms and conditions as necessary to ensure  
14 that the state money is expended in the most prudent manner  
15 possible and consistent with the original purpose.

16 F. Any deficiency that may adversely affect the  
17 health or safety of students or school personnel may be  
18 corrected pursuant to this section, regardless of the local  
19 effort or percentage of indebtedness of the school district.

20 G. It is the intent of the legislature that all  
21 outstanding deficiencies in public schools and grounds that may  
22 adversely affect the health or safety of students and school  
23 personnel be identified and awards made pursuant to this  
24 section no later than June 30, 2005, and that funds be expended  
25 no later than June 30, 2007, provided that the council may

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1 extend the expenditure period upon a determination that a  
2 project requires the additional time because existing buildings  
3 need to be demolished or because of other extenuating  
4 circumstances."

5 SECTION 3. Section 60-13-2 NMSA 1978 (being Laws 1967,  
6 Chapter 199, Section 2, as amended) is repealed and a new  
7 Section 60-13-2 NMSA 1978 is enacted to read:

8 "60-13-2. [NEW MATERIAL] DEFINITIONS.--As used in the  
9 Construction Industries Licensing Act:

10 A. "apprentice" means a person who is engaged as  
11 the apprentice's principal occupation in learning and assisting  
12 in a trade;

13 B. "bid" means a written or oral offer to contract;

14 C. "building" means a structure built for use or  
15 occupancy by persons or property, including manufactured  
16 commercial units and modular homes or premanufactured homes  
17 designed to be placed on permanent foundations whether mounted  
18 on skids or permanent foundations or whether constructed on or  
19 off the site of location;

20 D. "certificate of qualification" means a  
21 certificate issued by the division to a qualifying party;

22 E. "chief" means the administrative head of a trade  
23 bureau;

24 F. "code" means a body or compilation of provisions  
25 or standards adopted by the division that govern contracting or

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1 some aspect of contracting, that provide for safety and  
2 protection of life and health and that are published by a  
3 nationally recognized standards assessment;

4 G. "commission" means the construction industries  
5 commission;

6 H. "department" means the regulation and licensing  
7 department;

8 I. "director" means the director of the division;

9 J. "division" means the construction industries  
10 division of the department;

11 K. "inspection agency" means a firm, partnership,  
12 corporation, association or any combination of them approved in  
13 accordance with rules as having the personnel and equipment  
14 available to adequately inspect for the proper construction of  
15 manufactured commercial units, modular homes or premanufactured  
16 homes;

17 L. "journeyman" means a person who is properly  
18 certified by the electrical bureau or the mechanical bureau to  
19 engage in or work at the journeyman's trade;

20 M. "jurisdictional conflict" means any conflict  
21 between or among trade bureaus as to the exercise of  
22 jurisdiction over an occupation or trade for which a license is  
23 required under the provisions of the Construction Industries  
24 Licensing Act;

25 N. "manufactured commercial unit" means a movable

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1 or portable housing structure over thirty-two feet in length or  
2 over eight feet in width that is constructed to be towed on its  
3 own chassis and designed so as to be installed without a  
4 permanent foundation for use as an office or other commercial  
5 purpose and that may include one or more components that can be  
6 retracted for towing purposes and subsequently expanded for  
7 additional capacity, or two or more units separately towable  
8 but designed to be joined into one integral unit, as well as a  
9 single unit, but that does not include any movable or portable  
10 housing structure over twelve feet in width and forty feet in  
11 length that is used for nonresidential purposes. "Manufactured  
12 commercial unit" does not include modular or premanufactured  
13 homes, built to a nationally recognized standard adopted by the  
14 commission and designed to be permanently affixed to real  
15 property;

16 O. "public use" means the use or occupancy of any  
17 structure, facility or manufactured commercial unit to which  
18 the general public, as distinguished from residents or  
19 employees, has access;

20 P. "qualifying party" means a person who submits to  
21 the examination for a license to be issued under the  
22 Construction Industries Licensing Act and who is responsible  
23 for compliance with the requirements of that act and with the  
24 rules, codes and standards adopted and promulgated in  
25 accordance with that act;

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1 Q. "superintendent" means the superintendent of  
2 regulation and licensing;

3 R. "trade bureau" means the electrical bureau, the  
4 mechanical bureau, the general construction bureau or the  
5 liquefied petroleum gas bureau of the division; and

6 S. "wages" means compensation paid to a person by  
7 an employer from which taxes are required to be withheld by  
8 federal and state law."

9 SECTION 4. Section 60-13-6 NMSA 1978 (being Laws 1977,  
10 Chapter 245, Section 168, as amended) is amended to read:

11 "60-13-6. CONSTRUCTION INDUSTRIES COMMISSION CREATED--  
12 MEMBERSHIP--DUTIES.--

13 A. [~~There is created within the division~~] The  
14 "construction industries commission" is created and is  
15 administratively attached to the department. The commission  
16 shall be composed of nine voting members who shall serve at the  
17 pleasure of the governor. Members shall be appointed by the  
18 governor, with the advice and consent of the senate as follows:

19 (1) one member who is a representative of the  
20 residential construction industry of this state;

21 (2) one member who is a licensed electrical  
22 contractor;

23 (3) one member who is a licensed mechanical  
24 contractor;

25 (4) one member who is a licensed and

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1 practicing architect;

2 (5) one member who is a practicing general  
3 contractor;

4 (6) one member who is a representative of the  
5 liquefied petroleum gas industry;

6 (7) one member who is a resident of the state,  
7 who is not a licensed contractor or certified journeyman and  
8 who shall represent the people of New Mexico;

9 (8) one member who is a representative of the  
10 subcontracting industry of the state; and

11 (9) one member who is a representative of  
12 organized labor.

13 Members shall be appointed to provide adequate representation  
14 of all geographic areas of the state.

15 B. Each member of the commission [~~shall~~] is  
16 entitled to receive per diem and mileage as provided in the Per  
17 Diem and Mileage Act and shall receive no other compensation,  
18 perquisite or allowance.

19 C. The commission shall annually elect a [~~chairman~~]  
20 chair and vice [~~chairman~~] chair from its membership. The  
21 director shall serve as the executive secretary of the  
22 commission.

23 D. The commission shall meet bimonthly or at the  
24 call of the [~~chairman~~] chair.

25 E. The commission shall [~~establish policy for the~~

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1 ~~division. It shall~~:

2                   (1) ~~[advise on, review, coordinate and approve~~  
3 ~~or disapprove all]~~ recommend the adoption of rules,  
4 ~~[regulations]~~ standards, codes and licensing requirements  
5 ~~[which are subject to the approval of the commission]~~ under the  
6 provisions of the Construction Industries Licensing Act or the  
7 LPG and CNG Act ~~[so as]~~ to insure that uniform codes and  
8 standards are promulgated and conflicting provisions are  
9 avoided; ~~[The commission shall~~

10                   ~~(1)]~~ (2) revoke or suspend, for cause, any  
11 license or certificate of qualification issued under the  
12 provisions of the Construction Industries Licensing Act or the  
13 LPG and CNG Act; and

14                   ~~[(2) define and establish all]~~ (3) recommend  
15 license classifications to be adopted by the division. The  
16 licensee shall be limited in ~~[his]~~ bidding and contracting as  
17 provided in Subsection B of Section 60-13-12 NMSA 1978. ~~[Any]~~  
18 A licensee, subsequent to the issuance of a license, may make  
19 application for additional classification and be licensed in  
20 more than one classification if ~~[he]~~ the licensee meets the  
21 prescribed qualification for the additional classification."

22           SECTION 5. Section 60-13-7 NMSA 1978 (being Laws 1977,  
23 Chapter 245, Section 169, as amended) is amended to read:

24           "60-13-7. CONSTRUCTION INDUSTRIES DIVISION--DIRECTOR--  
25 APPOINTMENT AND QUALIFICATIONS.--The superintendent [of

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1 ~~regulation and licensing~~] shall appoint the director of the  
2 division, who shall be a person who meets at least one of the  
3 following qualifications:

4 A. is or has been an active practicing construction  
5 contractor for at least [~~five~~] ten years;

6 B. is or has been an employee in an administrative  
7 position of a construction company for [~~at least five of~~] the  
8 past ten years;

9 C. has been employed by the [~~construction~~  
10 ~~industries~~] division for at least five years and is  
11 knowledgeable in the administration of the law governing the  
12 [~~construction industries~~] division; or

13 D. is or has been actively engaged for [~~at least~~  
14 ~~five of~~] the past ten years in an administrative position of an  
15 organization [~~which~~] that requires that person to have a broad  
16 knowledge of the construction industry."

17 SECTION 6. Section 60-13-9 NMSA 1978 (being Laws 1978,  
18 Chapter 73, Section 1, as amended) is amended to read:

19 "60-13-9. DIVISION--DUTIES.--The division shall:

20 A. adopt rules, standards, codes and licensing  
21 requirements, which are subject to approval of the  
22 superintendent as provided in Section 9-16-6 NMSA 1978;

23 [~~A-~~] B. approve and adopt examinations on codes and  
24 standards, business knowledge and division rules [~~and~~  
25 ~~regulations~~] and on the Construction Industries Licensing Act

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1 recommended by the commission for all classifications of  
2 contractor's licenses;

3 ~~[B.]~~ C. issue, under the director's signature,  
4 contractor's licenses and certificates of qualification in  
5 accordance with the provisions of the Construction Industries  
6 Licensing Act;

7 ~~[G.]~~ D. submit a list of all contractor's licenses  
8 and certificates of qualification issued by the division to the  
9 commission for review and approval;

10 ~~[D.]~~ E. resolve jurisdictional conflicts by  
11 assigning specific responsibility to the appropriate bureau for  
12 preparing examinations and for certifying and inspecting each  
13 occupation, trade or activity covered by the Construction  
14 Industries Licensing Act;

15 ~~[E.]~~ F. establish and collect fees authorized to be  
16 collected by the division pursuant to the Construction  
17 Industries Licensing Act;

18 ~~[F.]~~ G. adopt all building codes and minimum  
19 standards as recommended by the trade bureaus [~~and approved by~~  
20 ~~the commission~~] so that the public welfare is protected,  
21 uniformity is promoted and conflicting provisions are avoided;

22 ~~[G.]~~ H. with approval of the superintendent [~~of~~  
23 ~~regulation and licensing~~], employ such personnel as the  
24 division deems necessary for the exclusive purpose of  
25 investigating violations of the Construction Industries

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1 Licensing Act, enforcing Sections 60-13-12 and 60-13-38 NMSA  
2 1978 and instituting legal action in the name of the division  
3 to accomplish the provisions of Section 60-13-52 NMSA 1978;

4 ~~[H. approve, disapprove or revise the recommended~~  
5 ~~budget of each trade bureau and submit the budgets of those~~  
6 ~~bureaus, along with its own budget, to the regulation and~~  
7 ~~licensing department;~~

8 ~~I. approve, disapprove or revise and submit to the~~  
9 ~~regulation and licensing department all requests of the trade~~  
10 ~~bureaus for emergency budget transfers;~~

11 ~~J. make an annual report to the superintendent of~~  
12 ~~regulation and licensing and]~~

13 I. develop a policy manual concerning the  
14 operations of the division and the trade bureaus; ~~[The report~~  
15 ~~shall also contain the division's recommendations for~~  
16 ~~legislation it deems necessary to improve the licensing and~~  
17 ~~technical practices of the construction and LP gas industries~~  
18 ~~and to protect persons, property and agencies of the state and~~  
19 ~~its political subdivisions;~~

20 ~~K. adopt, subject to commission approval, rules and~~  
21 ~~regulations necessary to carry out the provisions of the~~  
22 ~~Construction Industries Licensing Act and the LPG Act;~~

23 ~~L.]~~ J. maintain a complete record of all  
24 applications; all licenses issued, renewed, canceled, revoked  
25 and suspended; and all fines and penalties imposed by the

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1 division [~~or commission~~] and may make that information  
2 available to certified code jurisdictions;

3 ~~[M.]~~ K. furnish, upon payment of a reasonable fee  
4 established by the division, a certified copy of any license  
5 issued or of the record of the official revocation or  
6 suspension [~~thereof~~] of a license. Such certified copy shall  
7 be prima facie evidence of the facts stated [~~therein~~] in the  
8 record; and

9 ~~[N.]~~ L. publish a list of contractors, with their  
10 addresses and classifications, licensed by the division. The  
11 list shall be furnished without charge to such public  
12 officials, public bodies or public works and building  
13 departments as the division deems advisable. The list shall be  
14 published annually, and supplements shall be provided as the  
15 division deems necessary. [~~Copies of the list and supplements~~  
16 ~~shall be furnished to any person upon request and payment of a~~  
17 ~~reasonable fee established by the division.]"~~

18 SECTION 7. Section 60-13-10.2 NMSA 1978 (being Laws 2007,  
19 Chapter 38, Section 6) is amended to read:

20 "60-13-10.2. DIVISION [~~AND COMMISSION~~]-STANDARDS TO  
21 ACCOMMODATE SOLAR COLLECTORS.--As provided in the Solar  
22 Collector Standards Act, the division [~~and commission~~] shall  
23 jointly with the energy, minerals and natural resources  
24 department promulgate rules, standards or codes that establish  
25 requirements for new construction that will accommodate the

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1 installation of solar collectors to or on the new construction  
2 after the construction is otherwise complete."

3 SECTION 8. Section 60-13-11 NMSA 1978 (being Laws 1967,  
4 Chapter 199, Section 14, as amended) is amended to read:

5 "60-13-11. DIVISION [~~OR COMMISSION~~]-POWERS.--The  
6 division [~~or the commission~~] may:

7 A. [~~sue and be sued~~] issue subpoenas and compel the  
8 attendance of witnesses and the production of documents,  
9 records and physical exhibits in any hearing;

10 B. administer oaths;

11 C. adopt and use a seal for authentication of its  
12 records, processes and proceedings;

13 D. compel minimum code compliance in all certified  
14 code jurisdictions and political subdivisions; and

15 E. investigate code violations in any code  
16 jurisdictions in New Mexico."

17 SECTION 9. Section 60-13-13 NMSA 1978 (being Laws 1967,  
18 Chapter 199, Section 16, as amended) is amended to read:

19 "60-13-13. APPLICATION FOR CONTRACTOR'S LICENSE.--

20 A. Applications for a contractor's license or a  
21 certificate of qualification shall be submitted to the division  
22 on forms prescribed and furnished by the division and shall  
23 contain the information and be accompanied by the attachments  
24 required by [~~regulation of the commission~~] the division.

25 B. The application shall be accompanied by the

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1 prescribed fee."

2 SECTION 10. Section 60-13-14 NMSA 1978 (being Laws 1967,  
3 Chapter 199, Section 17, as amended) is amended to read:

4 "60-13-14. DIVISION--LICENSE ISSUANCE--REPORTS.--

5 A. No license shall be issued by the division to  
6 [~~any~~] an applicant unless the director is satisfied that the  
7 applicant is or has in [~~his~~] the applicant's employ a  
8 qualifying party who is qualified for the classification for  
9 which application is made and the applicant has satisfied the  
10 requirements of Subsection B of this section.

11 B. An applicant for a license shall:

12 (1) demonstrate proof of responsibility as  
13 provided in the Construction Industries Licensing Act;

14 (2) comply with the provisions of Subsection D  
15 of this section if [~~he~~] the applicant has engaged illegally in  
16 the contracting business in New Mexico within one year prior to  
17 making application;

18 (3) demonstrate familiarity with the rules  
19 [~~and regulations~~] promulgated by the [~~commission and~~] division  
20 concerning the classification for which application is made;

21 (4) if a corporation, incorporated  
22 association, registered limited liability partnership or  
23 limited liability company, have complied with the laws of this  
24 state requiring qualification to do business in New Mexico and  
25 provide the name of its current registered agent and the

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1 current address of its registered office in New Mexico;

2 (5) if a person other than the persons  
3 described in Paragraph (4) of this subsection, provide a  
4 current physical location address and mailing address of the  
5 applicant's place of business;

6 (6) submit proof of registration with the  
7 taxation and revenue department and submit a current tax  
8 identification [~~tax~~] number;

9 (7) comply with any additional procedures and  
10 rules [~~and regulations which are established by the commission~~]  
11 relating to issuance of licenses; and

12 (8) have had four years, within the ten years  
13 immediately prior to application, of practical or related trade  
14 experience dealing specifically with the type of construction  
15 or its equivalent for which the applicant is applying for a  
16 license, except that the [~~commission~~] division may [~~by~~  
17 ~~regulation~~] provide for:

18 (a) reducing this requirement for a  
19 particular industry or craft where it is deemed excessive, but  
20 the requirement shall not be less than two years; and

21 (b) a waiver of the work experience  
22 requirement of this paragraph when the qualifying party has  
23 been certified in New Mexico with the same license  
24 classification within the ten years immediately prior to  
25 application.

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1 C. The division, with the consent of the  
2 [~~commission~~] superintendent, may enter into a reciprocal  
3 licensing agreement with any state having equivalent licensing  
4 requirements.

5 D. The [~~director~~] division may issue a license to  
6 an applicant who at any time within one year prior to making  
7 application has acted as a contractor in New Mexico without a  
8 license as required by the Construction Industries Licensing  
9 Act if:

10 (1) the applicant in addition to all other  
11 requirements for licensure pays an additional fee as follows:

12 (a) in an amount up to ten percent of  
13 the contract price or the value of the nonlicensed contracted  
14 work in the discretion of the [~~commission~~] director; or

15 (b) if the applicant has bid or offered  
16 a price on a construction project and was not the successful  
17 bidder or offeror, the fee shall be at least one percent but  
18 not more than five percent of the total bid amount; and

19 (2) the director is satisfied that no incident  
20 of such contracting without a license:

21 (a) caused monetary damage to any  
22 person; or

23 (b) resulted in an unresolved consumer  
24 complaint being filed against the applicant with the division.

25 E. An unlicensed contractor who has performed

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1 unlicensed work may settle the claims against ~~[him]~~ the  
2 unlicensed contractor without becoming licensed if the claims  
3 arise from ~~[his]~~ a first offense and ~~[he]~~ the unlicensed  
4 contractor pays an administrative fee calculated pursuant to  
5 Paragraph (1) of Subsection D of this section. In addition to  
6 the administrative fee, an additional ten percent of the amount  
7 of the administrative fee shall be assessed as a service fee.

8 F. If the total fee to be paid by the contractor  
9 pursuant to the provisions of ~~[Subsection]~~ Subsections D ~~[or]~~  
10 and E of this section is twenty-five dollars (\$25.00) or less,  
11 the fee may be waived.

12 G. The ~~[director]~~ division shall report every  
13 incident of nonlicensed contracting work to the taxation and  
14 revenue department to assure that the contractor complies with  
15 tax requirements and pays all taxes due."

16 SECTION 11. Section 60-13-16 NMSA 1978 (being Laws 1967,  
17 Chapter 199, Section 18, as amended) is amended to read:

18 "60-13-16. DIVISION--QUALIFYING PARTY--EXAMINATION--  
19 CERTIFICATE.--

20 A. Except as otherwise provided in this section, no  
21 certificate of qualification shall be issued to ~~[an individual]~~  
22 a person desiring to be a qualifying party until ~~[he]~~ the  
23 person has passed ~~[with a satisfactory score]~~ an examination  
24 approved and adopted by the division.

25 B. The examination shall consist of a test based on

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1 general business knowledge, rules [~~and regulations~~] of the  
2 division and the provisions of the Construction Industries  
3 Licensing Act. In addition, applicants for a GB, MM or EE  
4 classification or for any other classification that the  
5 [~~commission~~] division determines to be appropriate shall take a  
6 test based on technical knowledge and familiarity with the  
7 prescribed codes and minimum standards of the particular  
8 classification for which certification is requested. The  
9 division shall provide examinations in both English and  
10 Spanish.

11 C. In lieu of the examination to determine  
12 knowledge of business and construction industries law provided  
13 for in Subsection B of this section, an applicant may satisfy  
14 the business and law knowledge requirement by receiving a  
15 certificate of completion of a business and law course of study  
16 offered by an accredited education institute approved by the  
17 [~~commission~~] division. The course and [~~any~~] preparation and  
18 instruction materials shall be available in both English and  
19 Spanish and shall be made available to the division [~~the~~  
20 ~~commission~~] or the designated agent of the division, upon  
21 request, for review.

22 D. If a contractor's license is subject to  
23 suspension by the commission and if the suspension is based on  
24 the requirement that the licensee employ a qualifying party and  
25 the employment of the qualifying party is terminated without

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1 fault of the licensee, a member of that trade who is  
2 experienced in the classification for which the certificate of  
3 qualification was issued and has been employed for five or more  
4 years by the licensed contractor shall be issued without  
5 examination a temporary certificate of qualification in the  
6 classification for which the contractor is licensed. The  
7 temporary qualifying party is required to pass the regular  
8 examination as set forth in Subsection B of this section within  
9 ninety days of issuance of a temporary certificate of  
10 qualification.

11 E. The certificate of qualification is not  
12 transferable.

13 F. A qualifying party whose certificate is revoked  
14 by the commission shall not reapply for a certificate for one  
15 year."

16 SECTION 12. Section 60-13-18 NMSA 1978 (being Laws 1967,  
17 Chapter 199, Section 20, as amended) is amended to read:

18 "60-13-18. LICENSES--RENEWAL.--

19 A. Licenses issued by the division are not  
20 transferable.

21 B. Contractor's licenses shall expire two years  
22 after the issuance date or as determined by the division, but  
23 in no instance less than one year, and shall be renewable upon  
24 application to the division and payment of the prescribed  
25 renewal fee; provided that nothing in this subsection shall

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1 prohibit the division from establishing a staggered system of  
2 license expiration and a procedure for proration of fees for  
3 licenses issued for less than the two-year period or other  
4 period provided by the division pursuant to this subsection.

5 ~~[G. Licenses shall expire upon the date established~~  
6 ~~by regulation of the commission, such regulation to provide for~~  
7 ~~a staggered system of license expiration and for proration of~~  
8 ~~fees for licenses issued for less than a full year.~~

9 ~~Thereafter, such licenses shall be issued for a period of two~~  
10 ~~years or as otherwise provided by the division pursuant to~~  
11 ~~Subsection B of this section. Licenses shall be subject to~~  
12 ~~renewal upon application to the division and payment of the~~  
13 ~~prescribed renewal fee.~~

14 ~~D.]~~ C. Licensees and journeyman certificate holders  
15 may be required to complete and submit proof of continuing  
16 education as a prerequisite for renewal of a license. When  
17 required by rule adopted by the division, an applicant for a  
18 license renewal ~~[must]~~ shall submit with the application for  
19 license renewal proof of eight hours of instruction in code  
20 change and eight hours of instruction in other industry-related  
21 and division-approved subjects. The sixteen hours of  
22 continuing education must have been completed within the three  
23 years prior to the date of the license renewal application.

24 ~~[E.]~~ D. The ~~[director]~~ division shall, at least  
25 thirty days prior to the expiration date of a license, notify

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1 the licensee of the approaching expiration. Notice shall be  
2 given by mail addressed to the licensee's last address on file  
3 with the division. The notice shall include a renewal  
4 application form, instructions and any other information  
5 prescribed by the division.

6 [~~F.~~] E. Failure of a licensee to make application  
7 for the renewal of the licensee's license, to furnish such  
8 other information required by the [~~commission and~~] division or  
9 to pay the prescribed renewal fee by the last working day prior  
10 to the expiration of the license shall cause the license to be  
11 suspended by operation of law.

12 [~~G.~~] F. Unless the license is renewed within a  
13 three-month period, it shall be canceled. The suspended  
14 license may be renewed only after payment of a fee equal to one  
15 dollar (\$1.00) for each day, up to thirty days, that has  
16 elapsed since the expiration date of the license and thereafter  
17 for a fee equal to twice the amount of the renewal fee."

18 SECTION 13. Section 60-13-38 NMSA 1978 (being Laws 1967,  
19 Chapter 199, Section 41, as amended) is amended to read:

20 "60-13-38. CERTIFICATES OF COMPETENCE--EXAMINATION--  
21 JOURNEYMEN.--

22 A. A person shall not engage in the occupation or  
23 trade of journeyman unless [~~he~~] the person holds a certificate  
24 of competence issued by the division for the occupation or  
25 trade in which [~~he~~] the person desires to engage.

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1           B. The categories for certificates of competence  
2 are: journeyman electrician, journeyman plumber, journeyman  
3 gas fitter, journeyman pipe fitter, journeyman sheet metal  
4 worker, journeyman boiler operator, residential wireman and  
5 journeyman welder working on pipelines, collection lines or  
6 compressor stations.

7           C. An applicant for a certificate of competence  
8 shall be required to take an examination approved and adopted  
9 by the division as to [~~his~~] knowledge of the orders and rules  
10 governing the occupation or trade for which a certificate is  
11 sought, and as to [~~his~~] technical knowledge and ability  
12 pertaining to [~~his~~] the particular trade. The examination may  
13 be oral, written or demonstrative or any combination thereof,  
14 as required by rules of the [~~commission~~] division.

15           D. The division shall issue a certificate of  
16 competence to [~~any~~] a journeyman welder working on pipelines,  
17 collection lines or compressor stations who shows evidence of  
18 having satisfactorily completed an examination administered by  
19 an independent testing organization or public utility employing  
20 engineers registered with the state, such examination meeting  
21 the minimum pipeline safety standards set by the public  
22 regulation commission.

23           E. Applications for certificates of competence  
24 shall be in the form and shall contain [~~such~~] the information  
25 and attachments as the division prescribes.

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1           F. The division shall establish a reasonable fee  
2 for ~~[any]~~ an examination or issuance of certificate of  
3 competence.

4           G. A person is not eligible to take an examination  
5 for a certificate of competence unless ~~[he]~~ the person has had  
6 two years' experience in the occupation or trade for which a  
7 certificate of competence is sought, or the equivalent thereof  
8 as determined by the ~~[commission]~~ division, or has successfully  
9 completed a course in the trade approved by the instructional  
10 support and vocational education division of the ~~[state~~  
11 ~~department of]~~ public education department.

12           H. Employment of an apprentice working under the  
13 direct supervision of a certified journeyman is not prohibited  
14 by the Construction Industries Licensing Act.

15           I. A person is eligible to take an examination for  
16 a journeyman electrician certificate of competence after at  
17 least:

18                   (1) four years of accredited training in the  
19 electrical trade;

20                   (2) four years of apprenticeship in the  
21 electrical trade;

22                   (3) four years of practical experience in the  
23 electrical trade, of which two years are in the commercial  
24 trade, industrial trade or the equivalent as determined by the  
25 ~~[commission]~~ division; or

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1 (4) successfully completing an electrical  
2 trade program approved by the instructional support and  
3 vocational education division of the [~~state department of~~]  
4 public education department and two years of practical  
5 experience in the commercial electrical trade.

6 J. Continuing education requirements for a  
7 journeyman electrician shall include at least sixteen hours of  
8 continuing education in every three-year period between  
9 national electrical code updates, of which eight hours are code  
10 change instructions and eight hours are other industry-related  
11 instruction. All continuing education curricula and  
12 instructors shall be approved by the [~~commission~~] division  
13 based on recommendations by the electrical bureau.

14 K. A certificate of competence shall not be renewed  
15 until a complete application for renewal has been received by  
16 the division. Proof of completion of the continuing education  
17 requirements shall be submitted to the division with the  
18 application for renewal of certificate of competence. An  
19 application for renewal that is not accompanied by proof of  
20 completion of the continuing education requirements is  
21 incomplete and shall not be processed. The continuing  
22 education requirements in this subsection shall only apply to a  
23 journeyman electrician with the designation "EE-98J" or "JE98";  
24 this subsection does not apply to EE98.

25 L. A person is eligible to take an examination for

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1 a residential wireman's certificate of competence after at  
2 least:

3 (1) two years of accredited training or  
4 apprenticeship in the electrical trade;

5 (2) two years of practical experience in  
6 wiring residential dwellings; or

7 (3) successfully completing a course in the  
8 trade approved by the instructional support and vocational  
9 education division of the [~~state department of~~] public  
10 education department and one year of practical experience in  
11 wiring residential dwellings.

12 M. The provisions of Subsections I and L of this  
13 section do not apply to a person who was enrolled as a full-  
14 time student before June 20, 2003 in an electrical trade  
15 program approved by the instructional support and vocational  
16 education division of the [~~state department of~~] public  
17 education department."

18 SECTION 14. Section 60-13-41 NMSA 1978 (being Laws 1967,  
19 Chapter 199, Section 49, as amended) is amended to read:

20 "60-13-41. INSPECTORS--DESIGNATED INSPECTION AGENCIES.--

21 A. State inspectors shall be employed by the  
22 director.

23 B. Qualifications and job descriptions for  
24 inspectors for the state, municipalities and all other  
25 political subdivisions shall be prescribed by the division on

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1 recommendation of the commission.

2 C. The division may appoint inspection agencies to  
3 inspect the construction, installation, alteration or repair of  
4 manufactured commercial units, modular homes and  
5 premanufactured homes, including those manufacturers whose  
6 business premises are without the state, to ensure that the New  
7 Mexico standards of construction and installation are adhered  
8 to and that the quality of construction meets all New Mexico  
9 codes and standards. If the inspection agency has no place of  
10 business within the state, it shall file a written statement  
11 with the secretary of state setting forth its name and business  
12 address and designating the secretary of state as its agent for  
13 the service of process.

14 D. The division may enter into reciprocal  
15 agreements with other jurisdictions having comparable codes,  
16 standards and inspection requirements for the inspection of the  
17 construction, alteration or repair of modular homes,  
18 premanufactured homes and manufactured commercial units.

19 E. The division may, [~~with the approval~~] on  
20 recommendation of the commission, establish qualifications for  
21 inspectors certified to inspect in more than one bureau's  
22 jurisdiction."

23 SECTION 15. Section 60-13-43 NMSA 1978 (being Laws 1967,  
24 Chapter 199, Section 51, as amended) is amended to read:

25 "60-13-43. QUALIFICATION OF MUNICIPAL AND COUNTY

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1 INSPECTORS.--

2 A. No person shall be employed by ~~[any]~~ a  
3 municipality or county as an inspector unless ~~[he]~~ the person  
4 has first secured approval from the division of ~~[his]~~ the  
5 person's competence as an inspector.

6 B. Trade bureaus shall issue to all approved  
7 municipal and county inspectors a certificate setting forth the  
8 fact of approval.

9 C. Certification by the division shall remain in  
10 effect unless rescinded by action of the commission.

11 D. ~~[Any]~~ A complaint brought against a certified  
12 municipal or county inspector shall cause the director to  
13 assign an investigator to investigate the merits of the  
14 complaint and report to the ~~[commission]~~ division within thirty  
15 days."

16 SECTION 16. Section 60-13-44 NMSA 1978 (being Laws 1967,  
17 Chapter 199, Section 52, as amended) is amended to read:

18 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

19 A. The electrical bureau shall recommend to the  
20 ~~[commission]~~ division minimum standards for the installation or  
21 use of electrical wiring. The recommendations shall  
22 substantially embody the applicable provisions of an electrical  
23 code for safety to life and property promulgated by a  
24 nationally recognized association and developed through an  
25 open, balanced consensus process.

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1           B. The mechanical bureau shall recommend to the  
2 [~~commission~~] division minimum standards for the installation of  
3 all fixtures, consumers' gas pipe, appliances and materials  
4 installed in the course of a mechanical installation. The  
5 recommendations shall be in substantial conformity with codes  
6 and standards that are developed through an open, balanced  
7 consensus process. Manufacturers may choose the independent  
8 certification organization they wish to certify their products  
9 if the certification organization is accredited by the American  
10 national standards institute or other accreditation  
11 organization selected by the [~~commission~~] division.

12           C. The general construction bureau shall recommend  
13 to the [~~commission~~] division minimum standards for the  
14 construction, alteration or repair of buildings, except for  
15 those activities within the jurisdiction of the electrical  
16 bureau or the mechanical bureau. The recommendations shall  
17 substantially embody the applicable provisions of a nationally  
18 recognized building code that is developed through an open,  
19 balanced consensus process and shall give due regard to  
20 physical, climatic and other conditions peculiar to New Mexico.  
21 The standards shall include the authority to permit or deny  
22 occupancy of existing and new buildings or structures and  
23 authority to accept or deny the use of materials manufactured  
24 within or without the state. The general construction bureau  
25 may set minimum fees or charges for conducting tests to verify

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1 claims or specifications of manufacturers.

2 D. The general construction bureau shall recommend  
3 to the [~~commission~~] division additional specifications for any  
4 public building constructed in the state through expenditure of  
5 state, county or municipal funds, bonds and other revenues,  
6 which specifications shall embody standards making the building  
7 accessible to persons who have a physical disability, and the  
8 specifications shall conform substantially with those contained  
9 in a nationally recognized standard for making public  
10 facilities accessible to persons with a physical disability  
11 that is developed through an open, balanced consensus process.  
12 All orders and rules recommended by the general construction  
13 bureau and adopted by the [~~commission~~] division under the  
14 provisions of this section shall be printed and distributed to  
15 all licensed contractors, architects and engineers and to the  
16 governor's commission on disability. The orders and rules  
17 shall take effect on a date fixed by the [~~commission~~] division,  
18 which shall not be less than thirty days after their adoption  
19 by the [~~commission~~] division, and shall have the force of law.

20 E. The general construction bureau shall have the  
21 right of review of all specifications of public buildings and  
22 the responsibility to ensure compliance with the adopted  
23 standards.

24 F. All political subdivisions of the state are  
25 subject to the provisions of codes adopted and approved under

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1 the Construction Industries Licensing Act. Such codes  
2 constitute a minimum requirement for the codes of political  
3 subdivisions.

4 G. The trade bureaus within their respective  
5 jurisdictions shall recommend to the [~~commission~~] division  
6 standards that are developed through an open, balanced  
7 consensus process for the installation or use of electrical  
8 wiring, the installation of all fixtures, consumers' gas pipe,  
9 appliances and materials installed in the course of mechanical  
10 installation and the construction, alteration or repair of all  
11 buildings intended for use by persons with a physical  
12 disability or persons requiring special facilities to  
13 accommodate the aged. The recommendations shall give due  
14 regard to physical, climatic and other conditions peculiar to  
15 New Mexico.

16 H. The trade bureaus within their respective  
17 jurisdictions shall recommend to the [~~commission~~] division  
18 standards for the construction, alteration, repair, use or  
19 occupancy of manufactured commercial units, modular homes and  
20 premanufactured homes. The recommendations shall substantially  
21 embody the applicable provisions or standards for the safety to  
22 life, health, welfare and property approved by the nationally  
23 recognized standards association and developed through an open,  
24 balanced consensus process and shall give due regard to  
25 physical, climatic and other conditions peculiar to New Mexico.

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1       Wherever existing state codes or standards conflict with the  
2       codes and standards adopted by the [~~commission~~] division under  
3       the provisions of this subsection, the provisions of the  
4       applicable New Mexico building codes adopted pursuant to the  
5       Construction Industries Licensing Act and the LPG and CNG Act  
6       in effect at the applicable time shall exclusively apply and  
7       control, except for codes and standards for mobile housing  
8       units.

9               I. Modular homes and premanufactured homes in  
10       existence at the time of the effective date of the Construction  
11       Industries Licensing Act shall have their use or occupancy  
12       continued if such use or occupancy was legal on the effective  
13       date of that act, provided such continued use or occupancy is  
14       not dangerous to life. Any change in the use or occupancy or  
15       any major alteration or repair of a modular home or  
16       premanufactured home shall comply with all codes and standards  
17       adopted under the Construction Industries Licensing Act.

18               J. The [~~commission~~] division shall review all  
19       recommendations made under the provisions of this section and  
20       shall by rule adopt standards and codes that substantially  
21       comply with the requirements of this section that apply to the  
22       recommendations of the trade bureaus."

23               **SECTION 17.** Section 60-13-45 NMSA 1978 (being Laws 1967,  
24       Chapter 199, Section 53, as amended) is amended to read:

25               "60-13-45. TRADE BUREAUS--PERMITS.--

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1           A. The trade bureaus within their respective  
2 jurisdictions may require a permit to be secured and  
3 conspicuously posted prior to any construction, installation,  
4 alteration, repair or addition to or within any building,  
5 structure or premises.

6           B. No permit shall be required for the performance  
7 of any of the following classes of work:

8                   (1) minor repairs, replacement of lamps, the  
9 connection of portable electrical equipment to suitable  
10 receptacles [~~which~~] that are permanently installed, minor  
11 repairs or replacement of or to faucets, taps or jets or  
12 connection of portable equipment to suitable connections or  
13 inlets [~~which~~] that have been permanently installed;

14                   (2) installation of temporary wiring for  
15 testing electrical equipment or apparatus or installation of  
16 temporary fixtures or devices for testing fixtures, equipment,  
17 apparatus or appliances;

18                   (3) installation, alteration or repair of  
19 electrical equipment for the operation of signals or the  
20 transmission of intelligence by wire; [~~and~~] or

21                   (4) installation or work [~~which~~] that is done  
22 after regular business hours or during a holiday when immediate  
23 action is imperative to safeguard life, health or property,  
24 provided the person making the installation or performing the  
25 work applies for a permit covering the installation or work not

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1 later than the next business day.

2 C. If a permit has been issued for construction of  
3 a new residential building, that residential building shall not  
4 be occupied until a certificate of occupancy has been issued  
5 certifying compliance with all codes and standards.

6 D. The [~~commission~~] division shall make rules [~~and~~  
7 ~~regulations~~] pertaining to the issuance of permits and the  
8 setting of reasonable fees to be paid by the applicant for a  
9 permit. The [~~regulations~~] rules shall provide a procedure for  
10 the issuance of permits outside the corporate limits of a  
11 municipality where inspection is made by a state inspector or a  
12 municipal inspector serving as a part-time state inspector and  
13 for inspections within a municipality where the inspection is  
14 done exclusively by a full-time state inspector. Pursuant to  
15 division rule, each trade bureau [~~by regulation~~] may require a  
16 reasonable bond or surety in the penal sum of [~~five hundred~~  
17 ~~dollars (\$500)~~] two thousand five hundred dollars (\$2,500) or  
18 more, but not to exceed [~~fifteen hundred dollars (\$1,500)~~] five  
19 thousand dollars (\$5,000), with such bureau named as obligee  
20 and conditioned for the payment of inspection fees provided in  
21 the Construction Industries Licensing Act. Nothing in this  
22 section shall preclude municipalities from making inspections  
23 in accordance with the Construction Industries Licensing Act or  
24 rules [~~and regulations~~] pursuant to that act or from  
25 establishing a schedule of fees to be paid by an applicant for

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1 a permit.

2 E. In the event that the division assumes  
3 inspections of a municipal or county jurisdiction, the permit  
4 fees shall be paid directly to the division."

5 SECTION 18. Section 60-13-53 NMSA 1978 (being Laws 1967,  
6 Chapter 199, Section 60, as amended) is amended to read:

7 "60-13-53. [~~COMMISSION OR~~] DIVISION--POWERS OF  
8 INJUNCTION--MANDAMUS.--The [~~commission or~~] division may enforce  
9 in the district court of the county in which the offense was  
10 committed the provisions of the Construction Industries  
11 Licensing Act by injunction, mandamus or any proper legal  
12 proceeding."

13 SECTION 19. Section 60-13-55 NMSA 1978 (being Laws 1967,  
14 Chapter 199, Section 62, as amended) is amended to read:

15 "60-13-55. CONTINUATION OF CONSTRUCTION CODES AND  
16 STANDARDS.--Any code and minimum standard related to the  
17 construction, alteration, installation or repair of a private  
18 or public building or installation on public or private  
19 premises in effect at the time of passage and approval of the  
20 Construction Industries Licensing Act shall continue in effect  
21 until the [~~commission~~] division and trade bureaus created by  
22 the Construction Industries Licensing Act amend or revise those  
23 codes and minimum standards pursuant to provisions of the  
24 Construction Industries Licensing Act."

25 SECTION 20. Section 70-5-1 NMSA 1978 (being Laws 1947,

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1 Chapter 214, Section 1, as amended) is repealed and a new  
2 Section 70-5-1 NMSA 1978 is enacted to read:

3 "70-5-1. [NEW MATERIAL] DEFINITIONS.--As used in the LPG  
4 and CNG Act:

5 A. "bureau" means the liquefied petroleum gas  
6 bureau of the division;

7 B. "commission" means the construction industries  
8 commission;

9 C. "compressed natural gases" and "CNG" means  
10 mixtures of hydrocarbon gases and vapors consisting principally  
11 of methane in gaseous form, which has been compressed for  
12 vehicular fuel;

13 D. "department" means the regulation and licensing  
14 department;

15 E. "division" means the construction industries  
16 division of the regulation and licensing department;

17 F. "inspector" means a person hired by the bureau  
18 to enforce under administrative direction the laws and safety  
19 rules of the LP gas industry and the use of CNG in motor  
20 vehicles;

21 G. "liquefied petroleum gases", "LPG" and "LP gas"  
22 means any material that is composed predominantly of any of the  
23 following hydrocarbons or mixtures of them: propane,  
24 propylene, butanes (normal butane or iso-butane) and butylenes;

25 H. "product" or "products" of liquefied petroleum

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1 gases or compressed natural gases are considered to be  
2 liquefied petroleum gases, or compressed natural gases  
3 respectively; and

4 I. "qualified instructor" means an employee who has  
5 passed the required examination and performed for at least one  
6 year the work being taught."

7 SECTION 21. Section 70-5-3 NMSA 1978 (being Laws 1947,  
8 Chapter 214, Section 2, as amended) is amended to read:

9 "70-5-3. RULES [~~AND REGULATIONS~~] FOR DESIGN,  
10 CONSTRUCTION, ASSEMBLING, EQUIPPING AND INSTALLING OF  
11 CONTAINERS AND EQUIPMENT.--All containers and pertinent  
12 equipment used or to be used in this state for CNG equipment  
13 when attached to motor vehicles or for the storage,  
14 transporting or dispensing of LP gases or CNG by industrial,  
15 commercial or domestic users, together with appliances used or  
16 to be used in this state with LP gases as fuel, shall be  
17 designed, constructed, assembled, equipped and installed as  
18 specified by the rules [~~and regulations~~] of the [~~commission~~]  
19 division, adopted and promulgated as provided in the LPG and  
20 CNG Act."

21 SECTION 22. Section 70-5-4 NMSA 1978 (being Laws 1947,  
22 Chapter 214, Section 3, as amended) is amended to read:

23 "70-5-4. ACTS CONCERNING LP GAS OR CNG SUBJECT TO  
24 [~~COMMISSION~~] DIVISION RULES [~~AND REGULATIONS~~].--The selling,  
25 offering for sale, constructing, assembling, repairing,

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1 equipping, installing, filling with fuel, storage of fuel  
2 within, dispensing of fuel from or transporting fuel within  
3 containers described in Section 70-5-3 NMSA 1978 without the  
4 containers having been designed, constructed, assembled,  
5 equipped, maintained, tested and inspected as specified by the  
6 rules [~~and regulations~~] of the [~~commission~~] division pursuant  
7 to the LPG and CNG Act shall be a violation of the LPG and CNG  
8 Act and shall be subject to the fines, penalties and  
9 restrictions provided."

10 SECTION 23. Section 70-5-5 NMSA 1978 (being Laws 1947,  
11 Chapter 214, Section 4, as amended) is amended to read:

12 "70-5-5. POWER TO ADOPT AND PROMULGATE RULES [~~AND~~  
13 ~~REGULATIONS~~]~~--EXCEPTIONS TO ACT.--~~

14 A. On recommendation of the commission, the  
15 division may adopt and promulgate rules [~~and regulations~~] as  
16 [~~are~~] necessary to carry out the [~~purpose~~] provisions of the  
17 LPG and CNG Act and for the public peace, health and safety as  
18 affected by the use of such materials. The [~~regulations~~] rules  
19 made shall substantially conform with the standards as  
20 published by the national fire protection association covering  
21 the same subject matter. Nothing contained in this section is  
22 intended to alter the specifications for manufacturing or  
23 testing of containers established by the interstate commerce  
24 commission or the [~~U.S.~~] United States department of  
25 transportation or of containers installed in refineries, gas

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1 processing plants, underground storage terminals, natural gas  
2 distributing plants and pipeline terminals.

3 B. The ~~[bureau]~~ division may adopt a schedule of  
4 reasonable fees to be charged by the bureau for furnishing any  
5 printed matter or forms, for filing or recording any data  
6 sheets, blueprints, drawings, plans, specifications, reports  
7 and any other instrument or document and for making and  
8 furnishing copies of any record, report, ~~[regulation]~~ rule, law  
9 or any other matter on file with the bureau."

10 SECTION 24. Section 70-5-6 NMSA 1978 (being Laws 1947,  
11 Chapter 214, Section 5, as amended) is amended to read:

12 "70-5-6. LICENSE--EXCEPTIONS.--

13 A. No person ~~[firm or corporation]~~ shall engage in  
14 this state in the manufacturing, assembling, repairing, selling  
15 or installing of containers or appliances or of equipment for  
16 CNG attached or to be attached to motor vehicles to be used  
17 with LP gases as a fuel, nor shall any person ~~[firm or~~  
18 ~~corporation]~~ engage in the manufacture, sale, transportation,  
19 dispensing or storage of LP gases within this state, except  
20 where stored by the ultimate consumer for consumption only,  
21 without having first obtained from the bureau a license to do  
22 so for each main and branch office or business operated within  
23 the state pursuant to the LPG and CNG Act. No license shall be  
24 issued until the bureau has determined that the applicant meets  
25 all safety requirements provided for in that act and required

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1 by the rules [~~and regulations~~] of the [~~commission~~] division and  
2 the bureau finds that the applicant is fit and able to perform  
3 the work for which a license is requested; provided that  
4 household appliances and any other appliance, container or  
5 equipment being fed from a reservoir less than five pounds  
6 shall not be subject to the LPG and CNG Act; and provided,  
7 further, that retail sale of LP gas appliances, including  
8 factory installed LP gas appliances and equipment on campers,  
9 mobile homes and recreational vehicles, shall be exempt from  
10 this section.

11 B. When LP gas or CNG is to be the source of fuel,  
12 the installation of piping, appliances and equipment shall be  
13 made by installers qualified by the bureau. Property-owner  
14 installed systems, when certified by qualified installers or  
15 inspectors of the bureau, are exempt from the provisions of  
16 this subsection."

17 SECTION 25. Section 70-5-7 NMSA 1978 (being Laws 1970,  
18 Chapter 65, Section 1, as amended) is amended to read:

19 "70-5-7. REQUIRING COMPETENT EMPLOYEES IN TRANSPORTING,  
20 DISPENSING, INSTALLATION, SERVICE OR REPAIR.--

21 A. The bureau may require each person, firm or  
22 corporation that transports or dispenses LP gas or that  
23 installs, repairs or services appliances, containers, equipment  
24 or piping for the use of LP gas to have all persons who perform  
25 these activities pass an appropriate examination based on the

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1 safety requirements of the [~~commission~~] division.

2 B. A trainee employee shall be exempt from such  
3 examination for a period of forty-five working days and until  
4 examined by a representative of the bureau. A trainee  
5 employee, during the forty-five day period, shall be under  
6 supervision of a qualified instructor. Any LP or CNG gas  
7 licensee hiring a trainee shall, within forty-five days of the  
8 commencement of employment, notify the bureau of this fact so  
9 that an examination may be scheduled. If the trainee fails to  
10 pass the examination, [~~he~~] the trainee may retake it after  
11 additional instruction.

12 C. The [~~bureau~~] division shall set a reasonable fee  
13 for administering an examination."

14 SECTION 26. Section 70-5-9 NMSA 1978 (being Laws 1970,  
15 Chapter 65, Section 2, as amended) is amended to read:

16 "70-5-9. ANNUAL LICENSE FEES--INSPECTION FEES.--

17 A. For the purpose of defraying the expenses of  
18 administering the laws relating to the use of CNG in motor  
19 vehicles or the LP gas industry, each person, firm or  
20 corporation, at the time of application for a license and  
21 annually thereafter on or before December 31 of each calendar  
22 year, shall pay to the bureau reasonable license fees as set,  
23 classified and defined by the [~~bureau~~] division for each  
24 operating location; provided that the total annual fees charged  
25 any one licensee for a combination of LP gas activities at one

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1 location and subject to licensure under this section shall not  
2 exceed three hundred fifty dollars (\$350), and the fee charged  
3 for any single activity or operation as set, classified and  
4 defined by the bureau shall not exceed one hundred fifty  
5 dollars (\$150).

6 B. Nothing in the LPG and CNG Act is intended to  
7 alter the jurisdiction of the [~~state corporation commission~~  
8 ~~pipeline safety department~~] public regulation commission.

9 C. In addition, there shall be paid a reasonable  
10 fee for the safety inspection, made by a representative of the  
11 bureau, of each LP gas bulk storage plant and LP gas liquid  
12 transfer facility and of the LP gas equipment on each vehicular  
13 unit used for transportation of LP gas in bulk quantities. The  
14 fee shall be set by the [~~bureau~~] division and shall not be  
15 assessed more frequently than once in each twelve months. The  
16 bureau may also charge a reasonable fee for late payment of any  
17 fees as set by the division.

18 D. No annual license fee fixed by the [~~bureau~~]  
19 division as provided in this section shall become effective  
20 until after notice to each licensee has been made and hearing  
21 held on the proposed annual license fees in the manner provided  
22 by Section 70-5-14 NMSA 1978. At the conclusion of any  
23 hearing, the [~~bureau~~] division shall enter its findings and  
24 decision in writing as a [~~regulation~~] rule, and the  
25 [~~regulation~~] rule shall be filed as provided by the State Rules

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1 Act."

2 SECTION 27. Section 70-5-10 NMSA 1978 (being Laws 1947,  
3 Chapter 214, Section 9, as amended) is amended to read:

4 "70-5-10. REVENUE--SUSPENSE FUND.--All fees and money  
5 collected under the provisions of the LPG and CNG Act shall be  
6 remitted by the bureau to the [~~director of the division~~]  
7 department to be deposited in the general fund of the state.  
8 The [~~bureau~~] department may maintain a "special suspense fund"  
9 with the division in an amount of one thousand dollars (\$1,000)  
10 [~~budgeted by the bureau for the purpose of making~~] to make any  
11 necessary refunds. The bureau shall, with the advice and  
12 consent of the director of the division, employ inspectors,  
13 assistants and other necessary help as may be required to carry  
14 out its lawful duties."

15 SECTION 28. Section 70-5-12 NMSA 1978 (being Laws 1947,  
16 Chapter 214, Section 12, as amended) is amended to read:

17 "70-5-12. POWER OF BUREAU AND COMMISSION TO REFUSE TO  
18 GRANT, SUSPEND OR CANCEL A LICENSE.--The bureau may refuse to  
19 grant a license to any applicant and may request the commission  
20 to suspend or cancel the license of any licensee if it appears  
21 to the bureau upon hearing, as provided in the LPG and CNG Act,  
22 that an applicant or licensee has violated or failed to comply  
23 with any provision of law relating to LP gas or CNG or with any  
24 rule [~~regulation~~] or order of the [~~bureau or commission~~]  
25 division adopted pursuant to the LPG and CNG Act or that any

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1 licensee has demonstrated that ~~[he]~~ the licensee is incompetent  
2 or lacks knowledge in matters relevant to a license to such an  
3 extent that, in the judgment of the ~~[bureau]~~ commission, it  
4 would endanger the public safety to allow the licensee to  
5 continue to engage in LP gas or CNG activities or operations."

6 SECTION 29. Section 70-5-13 NMSA 1978 (being Laws 1947,  
7 Chapter 214, Section 13, as amended) is amended to read:

8 "70-5-13. PROVISIONS FOR HEARINGS.--Upon receipt of  
9 written complaint from one of its representatives or by any  
10 person or party affected, the bureau may, if it finds probable  
11 cause for such complaint, request the commission to hold a  
12 hearing to consider the complaint under the provisions of the  
13 LPG and CNG Act and under such rules ~~[and regulations]~~ not  
14 inconsistent with that act. If at the hearing the commission  
15 finds that the licensee has violated or failed to comply with  
16 any of the provisions of the LPG and CNG Act or the rules ~~[and~~  
17 ~~regulations]~~ of the ~~[bureau or commission, then]~~ division, the  
18 commission may revoke or suspend the license of the licensee.  
19 The bureau may investigate on its own motion any matters  
20 pertaining to the subject of the LPG and CNG Act and may  
21 request the commission to hold such hearings as ~~[it]~~ the bureau  
22 deems necessary. The ~~[bureau]~~ commission may also summon and  
23 compel the attendance of witnesses, require the production of  
24 any records or documents deemed by it to be pertinent to the  
25 subject matter of any investigation and provide for the taking

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1 of depositions of witnesses [~~under such rules as it may~~  
2 ~~prescribe~~]."

3 SECTION 30. Section 70-5-18 NMSA 1978 (being Laws 1947,  
4 Chapter 214, Section 18, as amended) is amended to read:

5 "70-5-18. CIVIL PENALTY FOR FAILURE TO COMPLY WITH ACT OR  
6 ANY ORDER OR RULE [~~OR REGULATION~~].--The failure of any person,  
7 firm or corporation or any association engaged in any LP gas or  
8 CNG activity or operation requiring a license by the bureau to  
9 comply, within forty-eight hours after the receipt of any  
10 certified order of the bureau [~~or commission~~] requiring  
11 compliance, with the laws relating to LP gases or CNG or any  
12 order of the bureau or rule [~~or regulation~~] of the division for  
13 the bureau [~~or commission~~] shall subject the person or the  
14 officers of the corporation to a civil penalty of [~~one hundred~~  
15 ~~dollars (\$100)~~] five hundred dollars (\$500) for each day the  
16 violation continues, and the attorney general may institute  
17 civil actions in the district court of the county in which the  
18 violation occurs to recover penalties in the name and on behalf  
19 of the state."

20 SECTION 31. Section 70-5-20 NMSA 1978 (being Laws 1947,  
21 Chapter 214, Section 21, as amended) is amended to read:

22 "70-5-20. ENFORCEMENT.--The bureau may enforce the laws  
23 relating to LP gases and CNG and any rules [~~regulations~~] or  
24 orders adopted [~~by it or the commission~~] pursuant to those laws  
25 by injunction in the district courts, which remedy shall be in

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1 addition to the civil and criminal penalties provided in the  
2 LPG and CNG Act. The chief and the inspectors of the bureau  
3 may issue citations for violation of the LPG and CNG Act."

4 SECTION 32. Section 70-5-21 NMSA 1978 (being Laws 1947,  
5 Chapter 214, Section 22, as amended) is amended to read:

6 "70-5-21. MISDEMEANOR.--Any person violating any  
7 provision of the LPG and CNG Act or the rules [~~regulations~~] or  
8 orders [~~of the bureau or the commission~~] issued pursuant to  
9 that act is guilty of a misdemeanor and shall be punished [~~by a~~  
10 ~~fine levied in a magistrate court of not less than fifty~~  
11 ~~dollars (\$50.00) or more than five hundred dollars (\$500) or by~~  
12 ~~imprisonment for not more than ninety days or both~~] as provided  
13 in Section 31-19-1 NMSA 1978."

14 SECTION 33. Section 70-5-22 NMSA 1978 (being Laws 1973,  
15 Chapter 362, Section 22, as amended) is amended to read:

16 "70-5-22. ADMINISTRATIVE PENALTY ASSESSMENTS.--The bureau  
17 may charge an administrative penalty for any violation of the  
18 LPG and CNG Act or the rules [~~regulations, codes~~] adopted  
19 pursuant to that act or of the orders of the bureau."

20 SECTION 34. Section 71-6-7.1 NMSA 1978 (being Laws 2007,  
21 Chapter 38, Section 5) is amended to read:

22 "71-6-7.1. CONSTRUCTION STANDARDS TO ACCOMMODATE SOLAR  
23 COLLECTORS--RULEMAKING.--The department and the construction  
24 industries division of the regulation and licensing department  
25 [~~and the construction industries commission~~] shall jointly

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1 promulgate rules, standards or codes that establish  
2 requirements for new construction that will accommodate the  
3 installation of solar collectors to or on the new construction  
4 after that construction is otherwise complete, including roof  
5 orientation, roof strength, location of obstructions to  
6 sunlight, access to installation locations, built-in conduit,  
7 wiring and piping and brackets for attaching solar collectors."

8 SECTION 35. TEMPORARY PROVISION--RULES.--Rules of the  
9 construction industries commission shall be deemed to be rules  
10 of the construction industries division of the regulation and  
11 licensing department until amended or repealed by the division.

12 SECTION 36. REPEAL.--Sections 9-16-12, 60-13-1.1 and  
13 60-13-15 NMSA 1978 (being Laws 1983, Chapter 297, Section 28,  
14 Laws 1967, Chapter 199, Section 4 and Laws 1977, Chapter 245,  
15 Section 177, as amended) are repealed.

16 SECTION 37. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2011.