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HOUSE BILL 29

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

INTRODUCED BY

Patricia A. Lundstrom and Carlos R. Cisneros

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; CREATING THE COMMERCE DEPARTMENT; REPLACING THE ECONOMIC DEVELOPMENT DEPARTMENT, THE TOURISM DEPARTMENT AND THE WORKFORCE SOLUTIONS DEPARTMENT; PROVIDING POWERS AND DUTIES; ELIMINATING OR ADMINISTRATIVELY ATTACHING CERTAIN AUTHORITIES, BOARDS, COMMISSIONS, COUNCILS AND COMMITTEES; PROVIDING FOR SUNSETS OF ADMINISTRATIVELY ATTACHED AGENCIES; TRANSFERRING FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

**SECTION 1.** [NEW MATERIAL] SHORT TITLE.--Sections 1 through 26 of this act may be cited as the "Commerce Department Act".

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1           SECTION 2.   ~~[NEW MATERIAL]~~ PURPOSE.--The purpose of the  
2 Commerce Department Act is to establish a single, unified  
3 department to administer laws and exercise functions formerly  
4 administered and exercised by the economic development  
5 department, the tourism department and the workforce solutions  
6 department.

7           SECTION 3.   ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the  
8 Commerce Department Act:

- 9           A. "department" means the commerce department; and
- 10          B. "secretary" means the secretary of commerce.

11          SECTION 4.   ~~[NEW MATERIAL]~~ DEPARTMENT CREATED--  
12 ORGANIZATIONAL UNITS.--

13          A. The "commerce department" is created as a  
14 cabinet department and includes the following organizational  
15 units:

- 16                       (1) office of the secretary;
- 17                       (2) administrative services division,  
18 including:
  - 19                               (a) economic research and analysis  
20 bureau; and
  - 21                               (b) information technology bureau;
  - 22                       (3) economic development division, including:
    - 23                                       (a) international trade bureau;
    - 24                                       (b) marketing bureau;
    - 25                                       (c) New Mexico film bureau; and

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- 1 (d) enterprise development bureau;
- 2 (4) labor relations division, including:
- 3 (a) human rights bureau;
- 4 (b) apprenticeship bureau; and
- 5 (c) labor and industrial bureau;
- 6 (5) tourism development division, including:
- 7 (a) New Mexico magazine bureau; and
- 8 (b) welcome centers bureau; and
- 9 (6) work force transition services division.

10 B. The secretary may establish, merge or eliminate  
11 organizational units of the department for better efficiency  
12 and effectiveness, but a reorganization of statutory divisions  
13 or bureaus shall be reported to the next regular session of the  
14 legislature.

15 SECTION 5. [NEW MATERIAL] ADMINISTRATIVELY ATTACHED  
16 AGENCIES.--

17 A. The following boards, commissions, committees,  
18 administrations, authorities and councils are administratively  
19 attached agencies of the department:

- 20 (1) apprenticeship council;
- 21 (2) economic development and tourism  
22 commission;
- 23 (3) human rights commission;
- 24 (4) labor and industrial commission;
- 25 (5) New Mexico-Chihuahua commission;

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- 1 (6) New Mexico-Sonora commission;
- 2 (7) spaceport authority;
- 3 (8) state fair commission;
- 4 (9) workers' compensation administration; and
- 5 (10) state workforce development board.

6 B. The department shall provide administrative  
7 services to administratively attached agencies.

8 SECTION 6. [NEW MATERIAL] SECRETARY OF COMMERCE.--The  
9 chief executive and administrative officer of the department is  
10 the "secretary of commerce". The secretary shall be appointed  
11 by the governor with the consent of the senate. The secretary  
12 shall hold that office at the pleasure of the governor and  
13 shall serve in the executive cabinet.

14 SECTION 7. [NEW MATERIAL] SECRETARY--DUTIES AND GENERAL  
15 POWERS.--

16 A. The secretary is responsible to the governor for  
17 the operation of the department. It is the secretary's duty to  
18 manage all operations of the department and to administer and  
19 enforce the laws with which the secretary or the department is  
20 charged.

21 B. To perform the secretary's duties, the secretary  
22 has every power expressly enumerated in the laws, whether  
23 granted to the secretary or the department or any division of  
24 the department, except when authority conferred upon any  
25 division is explicitly exempted from the secretary's authority

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1 by statute. In accordance with these provisions, the secretary  
2 shall:

3 (1) except as otherwise provided in the  
4 Commerce Department Act, exercise general supervisory and  
5 appointing authority over all department employees, subject to  
6 any applicable personnel laws and rules;

7 (2) delegate authority to subordinates as the  
8 secretary deems necessary and appropriate, clearly delineating  
9 such delegated authority and the limitations thereto;

10 (3) organize the department into those  
11 organizational units that the secretary deems will enable it to  
12 function most efficiently;

13 (4) within the limitations of available  
14 appropriations and applicable laws, employ and fix the  
15 compensation of those persons necessary to discharge the  
16 secretary's duties;

17 (5) take administrative action by issuing  
18 orders and instructions, not inconsistent with the law, to  
19 assure implementation of and compliance with the provisions of  
20 law for whose administration or execution the secretary is  
21 responsible and to enforce those orders and instructions by  
22 appropriate administrative action in the courts;

23 (6) conduct research and studies that will  
24 improve the operations of the department and the provision of  
25 services to the residents of the state;

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1 (7) provide for courses of instruction and  
2 practical training for employees of the department and other  
3 persons involved in the administration of programs, with the  
4 objective of improving the operations and efficiency of  
5 administration;

6 (8) prepare an annual budget of the department  
7 based on the five-year economic development and tourism plans;

8 (9) provide budgeting, recordkeeping and  
9 related clerical assistance to administratively attached  
10 agencies; and

11 (10) appoint a "director" for each division.  
12 These appointed positions are exempt from the provisions of the  
13 Personnel Act. Persons appointed to these positions shall  
14 serve at the pleasure of the secretary.

15 C. The secretary may apply for and receive in the  
16 name of the department any public or private funds, including  
17 United States government funds, available to the department to  
18 carry out its programs, duties or services.

19 D. The secretary may make and adopt such reasonable  
20 procedural rules as may be necessary to carry out the duties of  
21 the department and its divisions. No rule promulgated by the  
22 director of any division in carrying out the functions and  
23 duties of the division shall be effective until approved by the  
24 secretary, unless otherwise provided by statute. Unless  
25 otherwise provided by statute, no rule affecting any person or

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1 agency outside the department shall be adopted, amended or  
2 repealed without a public hearing on the proposed action before  
3 the secretary or a hearing officer designated by the secretary.  
4 The public hearing shall be held in Santa Fe unless otherwise  
5 permitted by statute. Notice of the subject matter of the  
6 rule, the action proposed to be taken, the time and place of  
7 the hearing, the manner in which interested persons may present  
8 their views and the method by which copies of the proposed rule  
9 or proposed amendment or repeal of an existing rule may be  
10 obtained shall be published once at least thirty days prior to  
11 the hearing date in a newspaper of general circulation and  
12 mailed at least thirty days prior to the hearing date to all  
13 persons who have made a written request for advance notice of  
14 hearing. All rules shall be filed in accordance with the State  
15 Rules Act.

16 SECTION 8. [NEW MATERIAL] BUREAUS--CHIEFS.--The secretary  
17 shall establish with each division such "bureaus" as deemed  
18 necessary to carry out the provisions of the Commerce  
19 Department Act. The secretary shall employ a "chief" to be the  
20 administrative head of each bureau. The chief and all  
21 subsidiary employees of the department shall be covered by the  
22 Personnel Act unless otherwise provided by law.

23 SECTION 9. [NEW MATERIAL] ORGANIZATIONAL UNITS OF  
24 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO  
25 INFORMATION.--Those organizational units of the department and

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1 the officers of those units specified by law shall have all of  
2 the powers and duties enumerated in the specific laws involved.  
3 However, the carrying out of those powers and duties shall be  
4 subject to the direction and supervision of the secretary, and  
5 the secretary shall retain the final decision-making authority  
6 and responsibility for the administration of any such laws as  
7 provided in Subsection B of Section 7 of the Commerce  
8 Department Act. The department shall have access to all  
9 records, data and information of other state departments,  
10 agencies and institutions, including its own organizational  
11 units, not specifically held confidential by law. Any  
12 information obtained by the department that is proprietary  
13 technical information or related to the possible relocation or  
14 expansion of a business shall be deemed confidential and  
15 withheld from inspection pursuant to the Inspection of Public  
16 Records Act.

17 SECTION 10. [NEW MATERIAL] COOPERATION WITH FEDERAL  
18 GOVERNMENT--AUTHORITY OF SECRETARY--SINGLE STATE AGENCY  
19 STATUS.--

20 A. The department is authorized to cooperate with  
21 the federal government in the administration of employment,  
22 training and public assistance programs under the jurisdiction  
23 of the department in which financial or other participation by  
24 the federal government is authorized or mandated under federal  
25 laws, regulations, rules or orders. The secretary may enter

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1 into agreements with agencies of the federal government to  
2 implement employment, training and public assistance programs  
3 subject to availability of appropriated state funds and any  
4 provisions of state laws applicable to such agreements or  
5 participation by the state.

6 B. The governor or the secretary may designate the  
7 department or any organizational unit of the department as the  
8 single state agency for the administration of any employment,  
9 training or public assistance program related to employment,  
10 either by the governor's or the secretary's own discretion or  
11 when such designation is a condition of federal financial or  
12 other participation in the program under applicable federal  
13 law, regulation, rule or order. No designation of a single  
14 state agency under the authority granted in this section shall  
15 be made in contravention of state law.

16 SECTION 11. [NEW MATERIAL] ECONOMIC DEVELOPMENT AND  
17 TOURISM COMMISSION CREATED--MEMBERSHIP--ADMINISTRATIVELY  
18 ATTACHED TO THE DEPARTMENT--POWERS AND DUTIES.--

19 A. The "economic development and tourism  
20 commission" is created and is administratively attached to the  
21 department. The department shall provide administrative  
22 support for the commission. The commission is a planning  
23 commission that provides advice to the department on policy  
24 matters. The commission is responsible for the annual approval  
25 and update of the state's five-year economic development and

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1 tourism plans.

2 B. The commission consists of fifteen members who  
3 shall be qualified electors of the state, no more than eight of  
4 whom at the time of their appointment shall be members of the  
5 same political party and at least two of whom shall be Native  
6 American. Members shall be appointed by the governor and  
7 confirmed by the senate. Seven members shall be appointed from  
8 their respective planning districts, three members shall be  
9 appointed from their respective congressional districts, two  
10 members shall be Native American and represent the interests of  
11 Indian nations, tribes and pueblos and three members shall  
12 represent the public at large. Appointments shall be made for  
13 staggered five-year terms expiring on January 1 of the  
14 appropriate year. The governor shall determine the terms at  
15 the time of initial appointments. A vacancy on the commission  
16 shall be filled by appointment by the governor in the same  
17 manner as the original appointment for the unexpired term.

18 C. Annually, the governor shall designate a chair  
19 of the commission from among the members. The commission shall  
20 meet at the call of the chair, not less than once each calendar  
21 quarter, and shall invite representatives of appropriate  
22 legislative committees, other state agencies and interested  
23 persons to its meetings for the purpose of information exchange  
24 and coordination.

25 D. Commission members shall not vote by proxy. A

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1 majority of the members constitutes a quorum for the conduct of  
2 business.

3 E. Members of the commission shall not be removed  
4 except for cause.

5 F. Commission members are entitled to receive  
6 reimbursement for per diem and mileage as provided in the Per  
7 Diem and Mileage Act but shall receive no other compensation,  
8 perquisite or allowance.

9 G. The commission shall:

10 (1) develop and recommend policies and provide  
11 policy and program guidance for the department;

12 (2) review, modify and approve annual updates  
13 to the state's five-year economic development and tourism plans  
14 generated by the department;

15 (3) advise, assist and promote the department  
16 on matters relating to economic development, tourism, tribal  
17 tourism, technology, technology-based new business development  
18 and technology commercialization projects, including small  
19 business needs;

20 (4) review federal technology-based programs  
21 requiring state matching funds and authorize any expenditure or  
22 pledge of the state match fund for such programs; and

23 (5) establish such rules for its own  
24 operations as are necessary to achieve the purposes of the  
25 Commerce Department Act. Rules of the commission shall be

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1 adopted in the same procedural manner as rules of the  
2 department are adopted and shall be filed in accordance with  
3 the State Rules Act.

4 H. The commission is terminated July 1, 2015  
5 pursuant to the provisions of the Sunset Act unless continued  
6 by law. The provisions of that act notwithstanding, there is  
7 no wind-up period for the commission.

8 SECTION 12. [NEW MATERIAL] ADDITIONAL ECONOMIC  
9 DEVELOPMENT DUTIES.--The department shall:

10 A. provide a coordinated statewide perspective with  
11 regard to economic development activities;

12 B. work with and provide staff support to the  
13 economic development and tourism commission in formulating and  
14 implementing the state's five-year economic development plan;

15 C. maintain and update records on the status of all  
16 completed and ongoing economic development projects of the  
17 department;

18 D. develop, maintain and provide economic and  
19 demographic information to the governor, the legislature, other  
20 state agencies and local governments;

21 E. serve as lead agency in coordination of the  
22 census program at the state data center;

23 F. provide a database for local and regional  
24 economic development groups and serve as a comprehensive source  
25 of information and assistance to businesses wishing to locate

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1 or expand in New Mexico;

2 G. actively encourage new economic enterprises to  
3 locate in New Mexico and assist existing businesses to expand;

4 H. monitor the progress of state-supported economic  
5 development activities and prepare annual reports of those  
6 activities and their status and impact;

7 I. create and encourage methods designed to provide  
8 rapid economic diversification development that will create new  
9 employment opportunities for the residents of the state,  
10 including the issuance of grants and loans to municipalities  
11 and counties for economic enhancement projects;

12 J. provide for technology commercialization  
13 projects as an incentive to industry locating or expanding in  
14 the state;

15 K. support technology transfer programs;

16 L. promote New Mexico as a technology conference  
17 center;

18 M. promote and market federal and state technology  
19 commercialization programs;

20 N. develop and implement enhanced statewide  
21 procurement programs;

22 O. provide support and assistance in the creation  
23 and operation of development finance mechanisms such as  
24 business development corporations to ensure capital  
25 availability for business expansion and economic

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1 diversification; and

2 P. serve as the lead agency in coordination of the  
3 census program at the state data center.

4 SECTION 13. [NEW MATERIAL] ADDITIONAL TOURISM PROMOTION  
5 DUTIES.--The department shall:

6 A. provide a coordinated statewide perspective with  
7 regard to tourism activities;

8 B. work with and provide staff support to the  
9 economic development and tourism commission in formulating and  
10 implementing the state's five-year tourism plan;

11 C. provide a database for local and regional  
12 tourism groups and serve as a comprehensive source of  
13 information and assistance to tourism-related businesses  
14 wishing to locate, expand or do business in New Mexico;

15 D. monitor the progress of state-supported tourism  
16 activities and prepare annual reports of those activities and  
17 their status and impact; and

18 E. maintain and update records on the status of all  
19 completed and ongoing tourism-related projects of the  
20 department.

21 SECTION 14. [NEW MATERIAL] ADDITIONAL DUTIES--INDIAN  
22 ARTS, CRAFTS AND CULTURE--PROMOTION.--The department shall:

23 A. encourage the preservation and development of  
24 Indian arts and crafts among the Indian nations, tribes and  
25 pueblos of the state to increase the knowledge and appreciation

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1 of those arts and crafts;

2 B. encourage the preservation of traditional rites  
3 and ceremonials of Indian nations, tribes and pueblos to  
4 increase knowledge and appreciation of those rites and  
5 ceremonials; and

6 C. promote the intertribal ceremonial.

7 SECTION 15. [NEW MATERIAL] ADDITIONAL DUTIES--DEFENSE  
8 CONVERSION TECHNOLOGY AND OTHER TECHNOLOGY.--

9 A. The department is the lead agency to promote  
10 defense conversion technology, to coordinate the transfer of  
11 defense technology and other technology from federal, state and  
12 local government facilities to private sector industries and to  
13 promote private-public partnership and business development  
14 programs. The department shall coordinate or accept federal  
15 and state funds appropriated for conversion of defense  
16 technologies and to coordinate technology transfer in  
17 accordance with the state's technology development plan.

18 B. The department may contract with appropriate  
19 partnership intermediaries to assist in the coordination of  
20 defense conversion duties.

21 C. The department shall:

22 (1) oversee the activities of the  
23 manufacturing productivity center and manufacturing extension  
24 programs;

25 (2) coordinate the activities of small

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1 business incubators to encourage the development and viability  
2 of technology spin-off companies in the private sector;

3 (3) coordinate appropriate divisions in the  
4 department to provide technology export assistance;

5 (4) coordinate small business development and  
6 assistance programs for new and existing businesses;

7 (5) work with appropriate entities to identify  
8 sources of funding for capital expenditure programs and initial  
9 venture programs;

10 (6) coordinate the development of regional  
11 technology clusters; and

12 (7) provide support and coordination  
13 assistance as deemed necessary by the economic development and  
14 tourism commission and the secretary to assist the state in  
15 developing defense conversion industries.

16 SECTION 16. [NEW MATERIAL] DEPARTMENT COOPERATION WITH  
17 LOCAL AND REGIONAL ECONOMIC DEVELOPMENT AGENCIES.--The  
18 department shall cooperate with local and regional development  
19 agencies, including:

20 A. coordinating activities of the department and  
21 local or regional development agencies;

22 B. assisting in gathering information on local and  
23 regional assets;

24 C. assisting in the establishment of procedures for  
25 handling potential clients;

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1 D. assisting in the development of a plan for the  
2 expansion of the local or regional economic base;

3 E. assisting in marketing the benefits of local  
4 communities by providing matching funds through the state  
5 cooperative advertising program, which shall include as  
6 eligible expenses travel and related costs to attract new  
7 business investment into the communities;

8 F. assisting in the establishment of programs to  
9 attract new labor forces or to train local labor forces; and

10 G. identifying barriers to local or regional  
11 economic development and developing plans to overcome such  
12 barriers.

13 SECTION 17. [NEW MATERIAL] ADMINISTRATIVE SERVICES  
14 DIVISION.--

15 A. The administrative services division shall  
16 provide administrative services to the department, including:

17 (1) keeping all official records of the  
18 department and administratively attached agencies;

19 (2) providing personnel administration,  
20 financial management, procurement and budget preparation  
21 services for the department and administratively attached  
22 agencies; and

23 (3) performing economic research and analysis  
24 for the department and the economic development and tourism  
25 commission.

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1           B. The division shall, in addition to its other  
2 duties, administer programs and grants that have been assigned  
3 generally to the department by the governor or the economic  
4 development and tourism commission or by statute.

5           SECTION 18. [NEW MATERIAL] TOURISM ENTERPRISE FUND--  
6 CREATED--ADMINISTRATION.--The "tourism enterprise fund" is  
7 created as a nonreverting fund in the state treasury. Money  
8 appropriated to the fund or accruing to it through sales of  
9 souvenirs and sundries at visitor centers, web-site-related  
10 sales, television special program rights, gifts, grants, fees,  
11 bequests or any other source shall be delivered to the state  
12 treasurer and deposited in the fund. The fund shall be  
13 administered by the department, and money in the fund is  
14 appropriated to the department to carry out the duties of the  
15 department. Disbursements from the fund shall be made only  
16 upon warrant drawn by the secretary of finance and  
17 administration pursuant to vouchers signed by the secretary of  
18 commerce.

19           SECTION 19. [NEW MATERIAL] ECONOMIC DEVELOPMENT  
20 DIVISION.--

- 21           A. The economic development division shall:
- 22                   (1) enhance the business climate to encourage
  - 23 the start-up, relocation, development and growth of technology-
  - 24 based industry in New Mexico;
  - 25                   (2) promote an expanded, diversified

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1 technology-based economy, emphasizing areas that:

2 (a) derive from the state's  
3 technological strengths;

4 (b) provide a commercial advantage; and

5 (c) lend themselves to a distributed  
6 technology-based industry network;

7 (3) support in-state industries and attract  
8 new industries to New Mexico;

9 (4) formulate and submit to the economic  
10 development and tourism commission a five-year state technology  
11 development plan;

12 (5) develop agreements with federal research,  
13 development, testing and evaluating organizations and  
14 universities to facilitate the transfer and commercialization  
15 of technology;

16 (6) recommend to the secretary proposed  
17 projects and contracts in accordance with the policies,  
18 procedures and guidelines established by the department;

19 (7) subject to the approval of the secretary,  
20 apply for and accept any federal funds or grants and private  
21 donations;

22 (8) develop requests for proposals in  
23 technology commercialization areas given priority in the  
24 state's economic development and tourism plans; receive and  
25 refer with commentary to the secretary proposals submitted in

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1 response to requests for proposals; confer with research  
2 investigators to assist them when needed; monitor progress on  
3 state-funded research and development projects; maintain  
4 contact with research and development offices of universities,  
5 federal laboratories and private research operations; and  
6 receive reports of individual projects;

7 (9) prepare an annual report on:

8 (a) the status of ongoing research and  
9 development projects;

10 (b) the results obtained from completed  
11 projects and the dissemination of those results; and

12 (c) other activities of the division;

13 (10) maintain and update records on the status  
14 of all completed and ongoing projects;

15 (11) request from each entity under contract  
16 with the division a detailed description of tasks and  
17 associated budgets for review and approval by the economic  
18 development and tourism commission; and

19 (12) perform such other duties as assigned by  
20 the secretary.

21 B. Any information obtained by the economic  
22 development division that is deemed by the director and the  
23 secretary to be proprietary technical or business information  
24 shall be held in confidence. Proprietary technical or business  
25 information shall not be deemed a public record under the

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1 Public Records Act or be open to inspection under Section  
2 14-2-1 NMSA 1978. The economic development division shall take  
3 such steps as are necessary to safeguard the confidentiality of  
4 the information.

5 C. Notwithstanding Sections 10-15-1 through 10-15-4  
6 NMSA 1978 or any other law requiring meetings of public bodies  
7 to be open to the public, meetings of the economic development  
8 and tourism commission shall be closed when proprietary  
9 technical or business information is discussed.

10 SECTION 20. [NEW MATERIAL] ENTERPRISE DEVELOPMENT BUREAU  
11 DUTIES--BUSINESS INCUBATORS.--

12 A. The enterprise development bureau of the  
13 economic development division shall:

14 (1) provide information and assistance to  
15 businesses wishing to relocate to New Mexico or to expand  
16 within New Mexico by providing a centralized information  
17 service and assistance center;

18 (2) develop and maintain a comprehensive  
19 statewide business information database and referral service;

20 (3) establish a mechanism for advertising the  
21 existence of the bureau and its referral service;

22 (4) provide professional assistance and  
23 information regarding licensing, permitting and taxation  
24 procedures; and

25 (5) establish a reporting procedure to monitor

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1 the success of the referral service.

2 B. Business incubators receiving state funds shall  
3 be required to pass a state incubator certification program  
4 administered by the bureau. The bureau shall certify business  
5 incubators that submit documentation to the bureau that the  
6 incubator has:

7 (1) a mission statement that defines the  
8 incubator's role to assist entrepreneurs and support the growth  
9 of businesses;

10 (2) a formal feasibility study indicating an  
11 appropriate market and local community support and a business  
12 plan;

13 (3) an effective governing board or an  
14 appropriate oversight advisory board committed to the  
15 incubator's mission;

16 (4) qualified management and staff to achieve  
17 the mission of the incubator and to help businesses;

18 (5) an ongoing business assistance program  
19 that places the greatest value on client assistance and adds  
20 value to client businesses by developing programs and  
21 coordinating activities such as:

22 (a) technical assistance and consulting;

23 (b) coaching and mentoring, business  
24 training workshops and seminars;

25 (c) providing marketing assistance;

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1 (d) fostering networking opportunities  
2 and links with other business service providers; and

3 (e) providing assistance in obtaining  
4 financing;

5 (6) a facility that encourages innovation and  
6 provides dedicated space for incubator client firms with  
7 flexible leases and that includes a common area meeting space  
8 and business equipment;

9 (7) a process for client businesses that  
10 involves a screening and selection process and graduation  
11 policy for client companies;

12 (8) a system for program evaluation;

13 (9) all applicable required licenses and  
14 permits and a functional accounting system; and

15 (10) membership in the national business  
16 incubation association.

17 SECTION 21. [NEW MATERIAL] ARTISANS BUSINESS DEVELOPMENT  
18 PROGRAM--FUND CREATED.--

19 A. The "New Mexico artisans business development  
20 program" is created within the economic development division to  
21 promote, in conjunction with the arts division of the cultural  
22 affairs department, the New Mexico artisans industry by  
23 establishing a greater demand for New Mexico artisans' wares  
24 and by providing technical and marketing assistance to New  
25 Mexico artisans. The purposes of the program include:

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1 (1) educational workshops and seminars in  
2 cooperation with the small business development centers for  
3 artisans to assist the centers in the development of their  
4 businesses and marketing of their wares;

5 (2) an assessment of a full range of marketing  
6 strategies for artisan wares and relating those wares to target  
7 markets;

8 (3) production of a promotional brochure of  
9 New Mexico artisans and their products;

10 (4) development and publishing of a marketing  
11 catalog of New Mexico artisans;

12 (5) establishment of a network of state and  
13 national distribution points and gift and trade shows for the  
14 promotion and export of New Mexico artisans' wares;

15 (6) development of a state and national  
16 marketing and exhibitions calendar;

17 (7) participation in state and national  
18 promotional shows by New Mexico artisans; and

19 (8) development of a marketing network with  
20 private-sector distributors, catalog producers and retailers.

21 B. The "New Mexico artisans business development  
22 fund" is created as a nonreverting fund in the state treasury.  
23 The fund consists of appropriations, gifts, grants, donations  
24 and income from investment of the fund. The fund shall be  
25 administered by the enterprise development bureau, and

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1 expenditures may be made from the fund on warrants issued by  
2 the secretary of finance and administration pursuant to  
3 vouchers signed by the secretary of commerce and economic  
4 development to carry out the purposes of the New Mexico  
5 artisans business development program.

6 SECTION 22. [NEW MATERIAL] TECHNOLOGY-BASED PROPOSALS--  
7 STATE MATCH FUND--CREATED.--

8 A. The "state match fund" is created in the state  
9 treasury. Money in the fund is appropriated to the department  
10 to provide a pool of matching funds for technology-based  
11 proposals submitted to the federal government on behalf of the  
12 state. Money in the fund shall only be expended upon review  
13 and approval of the economic development and tourism  
14 commission.

15 B. No money in the fund appropriated to it or  
16 accruing to it in any manner shall be transferred to another  
17 fund or encumbered or dispersed in any manner except for the  
18 purposes set forth in this section. Disbursements from the  
19 fund shall only be made upon warrant drawn by the secretary of  
20 finance and administration pursuant to vouchers signed by the  
21 secretary of commerce or the secretary's authorized  
22 representative.

23 SECTION 23. [NEW MATERIAL] INTERNATIONAL TRADE BUREAU  
24 DUTIES.--The international trade bureau is responsible for  
25 conducting and coordinating the state's relations with other

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1 countries and promoting New Mexico and its products and  
2 services. The bureau shall:

3 A. coordinate activities of the department and  
4 other state agencies as those activities relate to improving  
5 New Mexico's relations and trade with other countries;

6 B. promote New Mexico to international investors;

7 C. promote New Mexico products and services to  
8 potential international consumers;

9 D. establish a central registry for New Mexico  
10 products and services;

11 E. develop, maintain and use a database of  
12 potential domestic and international investors and consumers  
13 for New Mexico and its products and services;

14 F. foster, coordinate and support private efforts  
15 in the promotion of New Mexico and its businesses, products and  
16 services to consumers in other countries; and

17 G. work with persons outside of state government to  
18 formulate a trade promotion plan for inclusion in the  
19 department's five-year economic development and tourism plans.

20 SECTION 24. [NEW MATERIAL] MEXICAN TRADE--INTERNATIONAL  
21 TRADE BUREAU DUTIES.--The international trade bureau is  
22 responsible for:

23 A. conducting and coordinating the state's  
24 relations with the Republic of Mexico and the state of  
25 Chihuahua;

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1           B. promoting New Mexico products and services in  
2 Mexico;

3           C. coordinating activities of the department, the  
4 cultural affairs department, the department of transportation,  
5 the department of health, the department of environment, the  
6 department of public safety, the New Mexico-Chihuahua  
7 commission and the joint border research institute at New  
8 Mexico state university as those activities relate to improving  
9 New Mexico-Mexico relations and trade and encouraging or  
10 funding appropriate border development;

11           D. establishing and annually updating the New  
12 Mexico trade registry of New Mexico businesses and the products  
13 and services they offer to consumers; and

14           E. providing periodic reports to the New Mexico  
15 finance authority oversight committee on its activities and the  
16 activities of the state pertaining to New Mexico-Mexico  
17 relations, trade and border development.

18           SECTION 25. [NEW MATERIAL] MINORITY BUSINESS ASSISTANCE--  
19 ECONOMIC DEVELOPMENT DIVISION DUTIES.--

20           A. As used in this section, "minority business"  
21 means a business, with its principal place of business in New  
22 Mexico:

23                   (1) the majority ownership of which is held by  
24 persons who are residents of New Mexico and who are African  
25 Americans, Hispanic Americans, Asian Americans or Native

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1 Americans; and

2 (2) that employs twenty or fewer people.

3 B. The economic development division shall develop  
4 and implement a minority business assistance program to  
5 facilitate the entrance of minority businesses, located  
6 throughout the state, into the marketplace. As part of the  
7 development and implementation of the program, the division  
8 shall:

9 (1) develop a process to define and identify  
10 minority businesses that may benefit from additional assistance  
11 and training in the areas of general business practices,  
12 accounting principles, business ethics, technical expertise,  
13 marketing and government procurement;

14 (2) develop a registry of well-established  
15 businesses, persons within those businesses, retirees and other  
16 persons that have the expertise and skills that may be needed  
17 by minority businesses and that have expressed a desire to  
18 volunteer as a mentor or otherwise to assist minority  
19 businesses;

20 (3) develop an outreach and marketing program  
21 so that minority businesses may become aware of the assistance  
22 available and so that needed, experienced persons are aware of  
23 the opportunity to mentor and assist minority businesses;

24 (4) develop training materials and in-house  
25 training expertise; and

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1 (5) create a mentorship program in which  
2 employees or agents of the division or department or volunteers  
3 with business experience will visit minority businesses for the  
4 purpose of training, mentoring, advising and otherwise  
5 assisting the minority businesses in the development or  
6 improvement of general business practices, accounting  
7 principles, business ethics, technical expertise, marketing and  
8 government procurement.

9 C. In performing its duties pursuant to this  
10 section, the division may:

11 (1) to the extent money has been appropriated  
12 for such purposes, develop a grant program for minority  
13 businesses to acquire the expertise necessary to compete  
14 effectively; and

15 (2) do all other things necessary and proper  
16 to effectuate the purpose of this section.

17 D. All state agencies shall cooperate with the  
18 division in carrying out the provisions of this section and  
19 shall, as the opportunity arises, assist minority businesses  
20 and encourage other businesses and persons to register as  
21 volunteers pursuant to this section.

22 SECTION 26. [NEW MATERIAL] MINORITY BUSINESS ASSISTANCE  
23 FUND--CREATED.--The "minority business assistance fund" is  
24 created as a nonreverting fund in the state treasury. The fund  
25 consists of appropriations, gifts, grants, donations, bequests

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1 and income from investment of the fund. Money in the fund is  
2 subject to appropriation by the legislature to the department  
3 for the purposes of carrying out the provisions of Section 25  
4 of the Commerce Department Act. Disbursements from the fund  
5 shall be made on warrant of the secretary of finance and  
6 administration pursuant to vouchers signed by the secretary of  
7 commerce or the secretary's designee.

8 SECTION 27. Section 3-60B-4 NMSA 1978 (being Laws 1985,  
9 Chapter 88, Section 4, as amended) is amended to read:

10 "3-60B-4. MAIN STREET PROGRAM--CREATED--COORDINATOR--  
11 POWERS AND DUTIES.--

12 A. [~~There is created~~] The "main street program" is  
13 created in the [~~economic development~~] commerce department. The  
14 secretary of [~~the economic development department~~] commerce  
15 shall employ a "coordinator" to oversee the program.

16 B. The coordinator shall:

17 (1) carry out state responsibilities pursuant  
18 to contract with the national main street center of the  
19 national trust for historic preservation;

20 (2) coordinate activities of the program in  
21 consultation with the historic preservation division of the  
22 [~~office of~~] cultural affairs department;

23 (3) advise the New Mexico community  
24 development council on the development of criteria for requests  
25 for proposals and selection of local government grantees for

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1 the program to be funded through community development block  
2 grants;

3 (4) monitor the progress of main street  
4 projects;

5 (5) assist local main street project managers;  
6 and

7 (6) perform other duties necessary to carry  
8 out the provisions of the Main Street Act."

9 SECTION 28. Section 3-60C-4 NMSA 1978 (being Laws 2007,  
10 Chapter 103, Section 4, as amended) is amended to read:

11 "3-60C-4. MAIN STREET REVOLVING LOAN COMMITTEE--COMMITTEE  
12 AND DIVISION DUTIES.--

13 A. The "main street revolving loan committee" is  
14 created, consisting of six members as follows:

15 (1) the director of the division or the  
16 director's designee;

17 (2) the coordinator of the main street program  
18 under the Main Street Act or the coordinator's designee;

19 (3) the chair of the cultural properties  
20 review committee or the chair's designee;

21 (4) the director of the local government  
22 division of the department of finance and administration or the  
23 director's designee;

24 (5) a member appointed by the governor with  
25 expertise in small loans; and

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1 (6) the chair of the board of directors of  
2 friends of New Mexico mainstreet, inc., or the chair's  
3 designee.

4 B. [~~Public~~] Members of the committee shall not [~~be~~  
5 ~~paid but shall be reimbursed for~~] receive per diem and mileage  
6 [~~pursuant to the Per Diem and Mileage Act~~] or other  
7 compensation for their services.

8 C. The committee shall:

9 (1) elect a chair and such other officers as  
10 it deems necessary;

11 (2) meet at the call of the chair but no less  
12 than four times per year;

13 (3) by rule establish eligibility criteria for  
14 properties and owners, establish procedures to govern the  
15 application outreach and marketing of the loan program and  
16 promulgate such other rules as are necessary to carry out the  
17 provisions of the Main Street Revolving Loan Act;

18 (4) after considering the recommendations of  
19 the division, make awards of loans or loan subsidies; and

20 (5) approve expenditures by the division for  
21 marketing, managing and administering the loan program.

22 D. A member of the committee may participate in a  
23 meeting of the committee by means of a conference telephone or  
24 other similar communications equipment as provided in the Open  
25 Meetings Act. Participation by conference telephone or other

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1 similar communications equipment shall constitute presence in  
2 person at a meeting.

3 E. The division shall:

4 (1) review applications for loans and loan  
5 subsidies and make recommendations to the committee;

6 (2) administer all loans and loan subsidies;

7 (3) serve as staff to the committee; and

8 (4) report annually to the governor, the  
9 legislative finance committee and the legislature on loans  
10 made, loan payments received and all other activities conducted  
11 pursuant to the Main Street Revolving Loan Act."

12 SECTION 29. Section 5-10-1 NMSA 1978 (being Laws 1993,  
13 Chapter 297, Section 1) is amended to read:

14 "5-10-1. SHORT TITLE.--~~[This act]~~ Chapter 5, Article 10  
15 NMSA 1978 may be cited as the "Local Economic Development  
16 Act"."

17 SECTION 30. Section 5-10-3 NMSA 1978 (being Laws 1993,  
18 Chapter 297, Section 3, as amended) is amended to read:

19 "5-10-3. DEFINITIONS.--As used in the Local Economic  
20 Development Act:

21 A. "arts and cultural district" means a developed  
22 district of public and private uses that is created pursuant to  
23 the Arts and Cultural District Act;

24 B. "cultural facility" means a facility that is  
25 owned by the state, a county, a municipality or a qualifying

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1 entity that serves the public through preserving, educating and  
2 promoting the arts and culture of a particular locale,  
3 including theaters, museums, libraries, galleries, cultural  
4 compounds, educational organizations, performing arts venues  
5 and organizations, fine arts organizations, studios and media  
6 laboratories and live-work housing facilities;

7 C. "department" means the [~~economic development~~]  
8 commerce department;

9 D. "economic development project" or "project"  
10 means the provision of direct or indirect assistance to a  
11 qualifying entity by a local or regional government and  
12 includes the purchase, lease, grant, construction,  
13 reconstruction, improvement or other acquisition or conveyance  
14 of land, buildings or other infrastructure; public works  
15 improvements essential to the location or expansion of a  
16 qualifying entity; payments for professional services contracts  
17 necessary for local or regional governments to implement a plan  
18 or project; the provision of direct loans or grants for land,  
19 buildings or infrastructure; technical assistance to cultural  
20 facilities; loan guarantees securing the cost of land,  
21 buildings or infrastructure in an amount not to exceed the  
22 revenue that may be derived from the municipal infrastructure  
23 gross receipts tax or the county infrastructure gross receipts  
24 tax; grants for public works infrastructure improvements  
25 essential to the location or expansion of a qualifying entity;

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1 grants or subsidies to cultural facilities; purchase of land  
2 for a publicly held industrial park or a publicly owned  
3 cultural facility; and the construction of a building for use  
4 by a qualifying entity;

5 E. "governing body" means the city council, city  
6 commission or board of trustees of a municipality or the board  
7 of county commissioners of a county;

8 F. "local government" means a municipality or  
9 county;

10 G. "municipality" means an incorporated city, town  
11 or village;

12 H. "person" means an individual, corporation,  
13 association, partnership or other legal entity;

14 I. "qualifying entity" means a corporation, limited  
15 liability company, partnership, joint venture, syndicate,  
16 association or other person that is one or a combination of two  
17 or more of the following:

18 (1) an industry for the manufacturing,  
19 processing or assembling of agricultural or manufactured  
20 products;

21 (2) a commercial enterprise for storing,  
22 warehousing, distributing or selling products of agriculture,  
23 mining or industry, but, other than as provided in Paragraph  
24 (5) or (6) of this subsection, not including any enterprise for  
25 sale of goods or commodities at retail or for distribution to

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1 the public of electricity, gas, water or telephone or other  
2 services commonly classified as public utilities;

3 (3) a business in which all or part of the  
4 activities of the business involves the supplying of services  
5 to the general public or to governmental agencies or to a  
6 specific industry or customer, but, other than as provided in  
7 Paragraph (5) of this subsection, not including businesses  
8 primarily engaged in the sale of goods or commodities at  
9 retail;

10 (4) an Indian nation, tribe or pueblo or a  
11 federally chartered tribal corporation;

12 (5) a telecommunications sales enterprise that  
13 makes the majority of its sales to persons outside New Mexico;

14 (6) a facility for the direct sales by growers  
15 of agricultural products, commonly known as farmers' markets;

16 (7) a business that is the developer of a  
17 metropolitan redevelopment project; and

18 (8) a cultural facility; and

19 J. "regional government" means any combination of  
20 municipalities and counties that enter into a joint powers  
21 agreement to provide for economic development projects pursuant  
22 to a plan adopted by all parties to the joint powers  
23 agreement."

24 **SECTION 31.** Section 6-21-31 NMSA 1978 (being Laws 1992,  
25 Chapter 61, Section 31) is amended to read:

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1 "6-21-31. POWERS AND DUTIES.--The New Mexico finance  
2 authority oversight committee shall:

3 A. monitor and oversee the operation of the New  
4 Mexico finance authority;

5 B. meet on a regular basis to receive and review  
6 reports from the authority on implementation of the provisions  
7 of the New Mexico Finance Authority Act and to review and  
8 approve [~~regulations~~] rules proposed for adoption pursuant to  
9 that act;

10 C. monitor and provide assistance and advice on the  
11 public project financing program of the New Mexico finance  
12 authority;

13 D. oversee and monitor state and local government  
14 capital planning and financing and take testimony from state  
15 and local officials on state and local capital needs;

16 E. provide advice and assistance to the New Mexico  
17 finance authority and cooperate with the executive branch of  
18 state government and local governments on planning, setting  
19 priorities for and financing of state and local capital  
20 projects;

21 F. undertake an ongoing examination of the  
22 statutes, constitutional provisions, regulations and court  
23 decisions governing state and local government capital  
24 financing in New Mexico; [~~and~~]

25 G. monitor and provide advice and assistance on

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1 border economic development activities, particularly state and  
2 local government capital planning and financing of border and  
3 port-of-entry capital projects; and

4 [G.] H. report its findings and recommendations,  
5 including recommended legislation or necessary changes, to the  
6 governor and to each session of the legislature. The report  
7 and proposed legislation shall be made available on or before  
8 December 15 each year."

9 SECTION 32. Section 6-25-3 NMSA 1978 (being Laws 2003,  
10 Chapter 349, Section 3, as amended) is amended to read:

11 "6-25-3. DEFINITIONS.--As used in the Statewide Economic  
12 Development Finance Act:

13 A. "authority" means the New Mexico finance  
14 authority;

15 B. "department" means the [~~economic development~~]  
16 commerce department;

17 C. "community development entity" means an entity  
18 designed to take advantage of the federal new markets tax  
19 credit program;

20 D. "economic development assistance provisions"  
21 means the economic development assistance provisions of  
22 Subsection D of Article 9, Section 14 of the constitution of  
23 New Mexico;

24 E. "project revenue bonds" means bonds, notes or  
25 other instruments authorized in Section 6-25-7 NMSA 1978 and

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1 issued by the authority pursuant to the Statewide Economic  
2 Development Finance Act on behalf of eligible entities;

3 F. "economic development goal" means:

4 (1) assistance to rural and underserved areas  
5 designed to increase business activity;

6 (2) retention and expansion of existing  
7 business enterprises;

8 (3) attraction of new business enterprises; or

9 (4) creation and promotion of an environment  
10 suitable for the support of start-up and emerging business  
11 enterprises within the state;

12 G. "economic development revolving fund bonds"  
13 means bonds, notes or other instruments payable from the fund  
14 and issued by the authority pursuant to the Statewide Economic  
15 Development Finance Act;

16 H. "eligible entity" means a for-profit or not-for-  
17 profit business enterprise, including a corporation, limited  
18 liability company, partnership or other entity, determined by  
19 the department to be engaged in an enterprise that serves an  
20 economic development goal and is suitable for financing  
21 assistance;

22 I. "federal new markets tax credit program" means  
23 the tax credit program codified as Section 45D of the Internal  
24 Revenue Code, as that section may be amended or renumbered, and  
25 regulations issued pursuant to that section;

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1           J. "financing assistance" means project revenue  
2 bonds, loans, loan participations or loan guarantees provided  
3 by the authority to or for eligible entities pursuant to the  
4 Statewide Economic Development Finance Act;

5           K. "fund" means the economic development revolving  
6 fund;

7           L. "mortgage" means a mortgage, deed of trust or  
8 pledge of any assets as a collateral security;

9           M. "opt-in agreement" means an agreement entered  
10 into between the department and a qualifying county, a school  
11 district and, if applicable, a qualifying municipality that  
12 provides for county, school district and, if applicable,  
13 municipal approval of a project, subject to compliance with all  
14 local zoning, permitting and other land use rules, and for  
15 payments in lieu of taxes to the qualifying county, school  
16 district and, if applicable, qualifying municipality as  
17 provided by the Statewide Economic Development Finance Act;

18           N. "payment in lieu of taxes" means the total  
19 annual payment, including any state in-lieu payment, paid as  
20 compensation for the tax impact of a project, in an amount  
21 negotiated and determined in the opt-in agreement between the  
22 department and the qualifying county, the school district and,  
23 if applicable, the qualifying municipality, which payment shall  
24 be distributed to the county, municipality and school district  
25 in the same proportion as property tax revenues are normally

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1 distributed to those recipients;

2 O. "standard project" means land, buildings,  
3 improvements, machinery and equipment, operating capital and  
4 other personal property for which financing assistance is  
5 provided for adequate consideration, taking into account the  
6 anticipated quantifiable benefits of the standard project, for  
7 use by an eligible entity as:

8 (1) industrial or manufacturing facilities;

9 (2) commercial facilities, including  
10 facilities for wholesale sales and services;

11 (3) health care facilities, including  
12 hospitals, clinics, laboratory facilities and related office  
13 facilities;

14 (4) educational facilities, including schools;

15 (5) arts, entertainment or cultural  
16 facilities, including museums, theaters, arenas or assembly  
17 halls; and

18 (6) recreational and tourism facilities,  
19 including parks, pools, trails, open space and equestrian  
20 facilities;

21 P. "project" means a standard project or a state  
22 project;

23 Q. "qualifying municipality or county" means a  
24 municipality or county that enters into an opt-in agreement;

25 R. "quantifiable benefits" means a project's

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1 advancement of an economic development goal as measured by a  
2 variety of factors, including:

3 (1) the benefits an eligible entity contracts  
4 to provide, such as local hiring quotas, job training  
5 commitments and installation of public facilities or  
6 infrastructure; and

7 (2) other benefits such as the total number of  
8 direct and indirect jobs created by the project, total amount  
9 of annual salaries to be paid as a result of the project, total  
10 gross receipts and occupancy tax collections, total property  
11 tax collections, total state corporate and personal income tax  
12 collections and other fee and revenue collections resulting  
13 from the project;

14 S. "school district" means a school district where  
15 a project is located that is exempt from property taxes  
16 pursuant to the Statewide Economic Development Finance Act;

17 T. "state in-lieu payment" means an annual payment,  
18 in an amount determined by the department, that will be  
19 distributed to a qualifying county, a school district and, if  
20 applicable, a qualifying municipality in the same proportion as  
21 property tax revenues are normally distributed to those  
22 recipients;

23 U. "state project" means land, buildings or  
24 infrastructure for facilities to support new or expanding  
25 eligible entities for which financing assistance is provided

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1 pursuant to the economic development assistance provisions; and  
2 V. "tax impact of a project" means the annual  
3 reduction in property tax revenue to affected property tax  
4 revenue recipients directly resulting from the conveyance of a  
5 project to the department."

6 SECTION 33. Section 12-13A-1 NMSA 1978 (being Laws 2003,  
7 Chapter 9, Section 1) is amended to read:

8 "12-13A-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article  
9 13A NMSA 1978 may be cited as the "New Mexico-Chihuahua  
10 Commission Act"."

11 SECTION 34. Section 12-13A-4 NMSA 1978 (being Laws 2003,  
12 Chapter 9, Section 4) is amended to read:

13 "12-13A-4. NEW MEXICO-CHIHUAHUA COMMISSION CREATED--  
14 MEMBERS--ADMINISTRATION.--

15 A. The "New Mexico-Chihuahua commission" is created  
16 and is administratively attached to the ~~[economic development]~~  
17 commerce department.

18 B. The members of the commission representing New  
19 Mexico shall be:

- 20 (1) the governor of New Mexico;
- 21 (2) the secretary of ~~[economic development]~~  
22 commerce;
- 23 ~~[(3) the secretary of tourism;~~
- 24 ~~(4)]~~ (3) other state officials as assigned by  
25 the governor; and

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1                    [~~(5)~~] (4) no more than ten members of the  
2 public appointed by the governor of New Mexico.

3                    C. The members of the commission representing  
4 Chihuahua shall be appointed or assigned according to the  
5 customary procedure of the executive branch of the government  
6 of that state.

7                    D. The [~~economic development~~] commerce department  
8 shall provide administrative assistance to the commission as  
9 needed.

10                   E. The [~~economic development~~] commerce department  
11 shall keep records of commission proceedings.

12                   F. The co-chairs of the commission shall be the  
13 governors of New Mexico and Chihuahua.

14                   G. Meetings of the commission shall be at the call  
15 of the co-chairs or pursuant to the request of a majority of  
16 the members of the commission.

17                   H. Terms for public members of the commission  
18 appointed by the governor of New Mexico shall be for two years  
19 with reappointment to additional terms at the discretion of the  
20 governor.

21                   I. A vacancy in a term of a commission member  
22 representing New Mexico shall be filled by appointment by the  
23 governor of New Mexico for the remainder of the term of the  
24 position vacated.

25                   J. The public members of the commission appointed

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1 by the governor of New Mexico shall not receive per diem and  
2 mileage [~~pursuant to the Per Diem and Mileage Act~~] or other  
3 compensation for performance of official duties required by the  
4 commission [~~and shall receive no other compensation, perquisite~~  
5 ~~or allowance~~]."

6 SECTION 35. Section 12-13B-1 NMSA 1978 (being Laws 2009,  
7 Chapter 108, Section 1) is amended to read:

8 "12-13B-1. SHORT TITLE.--[~~This act~~] Chapter 12, Article  
9 13B NMSA 1978 may be cited as the "New Mexico-Sonora Commission  
10 Act"."

11 SECTION 36. Section 12-13B-3 NMSA 1978 (being Laws 2009,  
12 Chapter 108, Section 3) is amended to read:

13 "12-13B-3. NEW MEXICO-SONORA COMMISSION CREATED--  
14 MEMBERS--ADMINISTRATION.--

15 A. The "New Mexico-Sonora commission" is created  
16 and is administratively attached to the [~~economic development~~]  
17 commerce department.

18 B. The members of the commission representing New  
19 Mexico shall be:

- 20 (1) the governor of New Mexico;  
21 (2) the secretary of [~~economic development~~]  
22 commerce;  
23 [~~(3) the secretary of tourism;~~  
24 ~~(4)~~] (3) other state officials as assigned by  
25 the governor; and

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1                    [~~(5)~~] (4) no more than nine members of the  
2 public appointed by the governor of New Mexico.

3                    C. The members of the commission representing  
4 Sonora shall be appointed or assigned according to regulations  
5 and procedures governing commissions in that state.

6                    D. The [~~economic development~~] commerce department  
7 shall provide administrative assistance to the commission as  
8 needed.

9                    E. The [~~economic development~~] commerce department  
10 shall keep a record of commission proceedings.

11                    F. The co-chairs of the commission shall be the  
12 governors of New Mexico and Sonora.

13                    G. Meetings of the commission shall be at the call  
14 of the co-chairs or pursuant to the request of a majority of  
15 the members of the commission.

16                    H. Terms for public members of the commission  
17 appointed by the governor of New Mexico shall be for two years  
18 with reappointment to additional terms at the discretion of the  
19 governor.

20                    I. A vacancy in a term of a commission member  
21 representing New Mexico shall be filled by appointment by the  
22 governor of New Mexico for the remainder of the term of the  
23 position vacated.

24                    J. The public members of the commission appointed  
25 by the governor of New Mexico shall not receive per diem and

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1 mileage [~~pursuant to the Per Diem and Mileage Act~~] or other  
2 compensation for performance of official duties required by the  
3 commission [~~and shall receive no other compensation, perquisite~~  
4 ~~or allowance~~]."

5 SECTION 37. Section 16-6-5 NMSA 1978 (being Laws 1977,  
6 Chapter 245, Section 18, as amended) is amended to read:

7 "16-6-5. STATE FAIR COMMISSION ADMINISTRATIVELY ATTACHED  
8 TO [~~TOURISM~~] COMMERCE DEPARTMENT.--The state fair commission is  
9 administratively attached [~~as defined in the Executive~~  
10 ~~Reorganization Act~~] to the [~~tourism~~] commerce department."

11 SECTION 38. Section 21-2-6 NMSA 1978 (being Laws 1978,  
12 Chapter 54, Section 1, as amended) is amended to read:

13 "21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND  
14 PERSONS.--

15 A. The [~~state commission~~] higher education  
16 department in carrying out its planning activities for post-  
17 secondary education shall consult with and invite the active  
18 participation of:

19 (1) representatives of post-secondary  
20 educational institutions of the several types enumerated in  
21 Paragraph (2) of Subsection A of Section 21-2-2 NMSA 1978;

22 (2) the public education commission;

23 (3) the public education department;

24 (4) representatives of public and private  
25 elementary and secondary schools;

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1 (5) the secretary of [~~labor~~;  
2 ~~(6) the tourism department~~] commerce;  
3 [~~(7)~~] (6) the apprenticeship council;  
4 [~~(8) the economic development department~~;  
5 ~~(9)~~] (7) the state advisory council on  
6 vocational education;  
7 [~~(10)~~] (8) the secretary of finance and  
8 administration or the secretary's designee;  
9 [~~(11)~~] (9) persons familiar with the education  
10 needs of persons with a disability and persons disadvantaged by  
11 economic, racial or ethnic status;  
12 [~~(12)~~] (10) representatives of business,  
13 industry, organized labor and agriculture;  
14 [~~(13)~~] (11) the general public; and  
15 [~~(14)~~] (12) private in-state post-secondary  
16 institutions.

17 B. Whenever the planning activities carried out  
18 under the provisions of Section 21-2-5 NMSA 1978 are concerned  
19 with the types of post-secondary education enumerated in  
20 Subparagraphs (a) through (e) of Paragraph (1) of Subsection A  
21 of Section 21-2-2 NMSA 1978, the [~~state commission~~] commerce  
22 department shall directly involve the public education  
23 commission and the public education department in all planning  
24 activities."

25 SECTION 39. Section 21-19-10 NMSA 1978 (being Laws 1983,  
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1 Chapter 299, Section 4, as amended) is amended to read:

2 "21-19-10. COMMUNITY DEVELOPMENT ASSISTANCE.--The  
3 [~~economic development~~] commerce department shall provide  
4 assistance to political subdivisions of the state so that they  
5 can construct or implement projects necessary to provide  
6 services that will encourage the location of industry in the  
7 political subdivisions. The department shall, for this  
8 purpose, make low-interest loans to political subdivisions of  
9 the state with the approval of the economic development and  
10 tourism commission and after coordination with the local  
11 government division of the department of finance and  
12 administration pursuant to the New Mexico Community Assistance  
13 Act."

14 SECTION 40. Section 9-26-14 NMSA 1978 (being Laws 2007,  
15 Chapter 200, Section 14) is recompiled in Chapter 21, Article  
16 21A NMSA 1978 and is amended to read:

17 "DISCLOSURE OF INFORMATION.--To the extent permitted by  
18 federal law, upon the written request of a corporation  
19 organized pursuant to the Educational Assistance Act, the  
20 commerce department shall furnish the last known address and  
21 the date of that address of every person certified to the  
22 department as being an absent obligor of an educational debt  
23 that is due and owed to the corporation or that the corporation  
24 has lawfully contracted to collect. The corporation and its  
25 officers and employees shall use such information only for the

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1 purpose of enforcing the educational debt obligation of such  
2 absent obligors and shall not disclose that information or use  
3 it for any other purpose."

4 SECTION 41. Section 28-1-2 NMSA 1978 (being Laws 1969,  
5 Chapter 196, Section 2, as amended) is amended to read:

6 "28-1-2. DEFINITIONS.--As used in the Human Rights Act:

7 A. "person" means one or more individuals, a  
8 partnership, association, organization, corporation, joint  
9 venture, legal representative, trustees, receivers or the state  
10 and all of its political subdivisions;

11 B. "employer" means any person employing four or  
12 more persons and any person acting for an employer;

13 C. "commission" means the human rights commission;

14 D. "director" or "bureau" means the human rights  
15 bureau of the labor relations division of the [~~workforce~~  
16 ~~solutions~~] commerce department;

17 E. "employee" means any person in the employ of an  
18 employer or an applicant for employment;

19 F. "labor organization" means any organization that  
20 exists for the purpose in whole or in part of collective  
21 bargaining or of dealing with employers concerning grievances,  
22 terms or conditions of employment or of other mutual aid or  
23 protection in connection with employment;

24 G. "employment agency" means any person regularly  
25 undertaking with or without compensation to procure

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1 opportunities to work or to procure, recruit or refer  
2 employees;

3 H. "public accommodation" means any establishment  
4 that provides or offers its services, facilities,  
5 accommodations or goods to the public, but does not include a  
6 bona fide private club or other place or establishment that is  
7 by its nature and use distinctly private;

8 I. "housing accommodation" means any building or  
9 portion of a building that is constructed or to be constructed  
10 [~~which~~] and that is used or intended for use as the residence  
11 or sleeping place of [~~any individual~~] a person;

12 J. "real property" means lands, leaseholds or  
13 commercial or industrial buildings, whether constructed or to  
14 be constructed, offered for sale or rent, and any land rented  
15 or leased for the use, parking or storage of house trailers;

16 K. "secretary" means the secretary of [~~workforce~~  
17 ~~solutions~~] commerce;

18 L. "unlawful discriminatory practices" means those  
19 unlawful practices and acts specified in Section 28-1-7 NMSA  
20 1978;

21 M. "physical or mental handicap" means a physical  
22 or mental impairment that substantially limits one or more of a  
23 person's major life activities. A person is also considered to  
24 be physically or mentally handicapped if the person has a  
25 record of a physical or mental handicap or is regarded as

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1 having a physical or mental handicap;

2 N. "major life activities" means functions such as  
3 caring for one's self, performing manual tasks, walking,  
4 seeing, hearing, speaking, breathing, learning and working;

5 O. "applicant for employment" means a person  
6 applying for a position as an employee;

7 P. "sexual orientation" means heterosexuality,  
8 homosexuality or bisexuality, whether actual or perceived; and

9 Q. "gender identity" means a person's self-  
10 perception, or perception of that person by another, of the  
11 person's identity as a male or female based upon the person's  
12 appearance, behavior or physical characteristics that are in  
13 accord with or opposed to the person's physical anatomy,  
14 chromosomal sex or sex at birth."

15 SECTION 42. Section 37-1-5 NMSA 1978 (being Laws 1947,  
16 Chapter 44, Section 1, as amended) is amended to read:

17 "37-1-5. ACTIONS FOR WAGE AND HOUR VIOLATIONS.--A civil  
18 action to enforce any provision of Chapter 50, Article 4 NMSA  
19 1978 shall be commenced within three years after a violation  
20 last occurs. The three-year period shall be tolled during a  
21 labor relations division of the [~~workforce solutions~~] commerce  
22 department investigation of an employer, but such an  
23 investigation shall not be deemed a prerequisite to a person  
24 bringing a civil action, nor shall it operate to bar a civil  
25 action brought pursuant to Chapter 50, Article 4 NMSA 1978."

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1           SECTION 43. Section 50-1-2 NMSA 1978 (being Laws 1931,  
2 Chapter 9, Section 8, as amended) is amended to read:

3           "50-1-2. HEARINGS--LOCATION--NOTICE--CONDUCT--WITNESS  
4 FEES--SUBPOENAS--PENALTY.--The [~~director of the~~] labor [~~and~~  
5 ~~industrial~~] relations division of the commerce department shall  
6 have the power to hold hearings upon and therein examine  
7 witnesses, administer oaths and take testimony in all matters  
8 specified in any complaint [~~with him~~] filed with the division  
9 and relating to [~~his~~] the division's duties and the  
10 requirements of Chapter 50, Article 1 NMSA 1978, which hearings  
11 shall be held in some suitable place in the vicinity in which  
12 the testimony to be taken is applicable, and may issue  
13 [~~subpoena~~] subpoenas for and compel the attendance of witnesses  
14 at such hearings; provided, however, that the [~~director of the~~]  
15 labor [~~and industrial~~] relations division shall serve upon the  
16 employer and such employees as [~~he~~] the division deems  
17 necessary a written notice of the time, place, purpose and  
18 scope of the hearing at least ten days prior to the date  
19 thereof. At the hearing, the employer and any employees to be  
20 affected by any of the matters and things mentioned in the  
21 notice shall have the right to appear in person or by counsel,  
22 to cross-examine witnesses and to introduce such testimony as  
23 is competent, relevant and material to the subject, purpose and  
24 scope of the hearing as stated in the notice; provided,  
25 however, that [~~no~~] witness fees shall not be paid to [~~any~~] a

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1 witness unless ~~[he]~~ the witness is required to testify at a  
2 place more than five miles from ~~[his]~~ the witness's place of  
3 residence, in which event the witness shall be paid the same  
4 fees as a witness before a district court. Any person duly  
5 subpoenaed under the provisions of this section who willfully  
6 refuses or neglects to testify at the time and place named in  
7 the subpoena shall be guilty of a misdemeanor and upon  
8 conviction thereof shall be punished by a fine of not less than  
9 fifty dollars (\$50.00) ~~[nor]~~ or more than five hundred dollars  
10 (\$500) or by imprisonment in the county jail for a definite  
11 term not less than ten days ~~[nor]~~ or more than thirty days or  
12 by both such fine and imprisonment."

13 SECTION 44. Section 50-1-3 NMSA 1978 (being Laws 1931,  
14 Chapter 9, Section 9) is amended to read:

15 "50-1-3. POWERS AND DUTIES OF DIVISION.--~~[Said~~  
16 ~~commissioner shall inform himself]~~

17 A. The director of the labor relations division of  
18 the commerce department shall become informed of all laws of  
19 the state ~~[for the protection of]~~ that:

20 (1) protect life and limb in any of the  
21 industries of the state ~~[all laws regulating];~~

22 (2) regulate the hours of labor, the  
23 employment of minors and the payment of wages ~~[and all other~~  
24 ~~laws];~~

25 (3) are enacted for the protection, health and

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1 benefit of employees [~~and thereunder~~];

2 (4) foster, promote and develop the welfare of  
3 wage earners;

4 (5) advance opportunities for profitable  
5 employment;

6 (6) require, acquire and disseminate useful  
7 information on all [~~subject~~] subjects connected with labor; and

8 (7) assist in the enforcement of the  
9 [~~workman's~~] workers' compensation laws and the employers'  
10 liability acts of the state. [~~He shall have the power and~~  
11 ~~authority, when in his judgment he deems it necessary, to]~~

12 B. The division may take assignment of wage claims  
13 and prosecute actions for collection of wages or other claims  
14 or demands of employees or ex-employees, who are financially  
15 unable to employ counsel, in cases in which, in the judgment of  
16 the [~~commissioner~~] division, such claims and demands are valid  
17 and enforceable in the courts. [~~It shall be the duty of said~~  
18 ~~labor commissioner to]~~

19 C. The division shall enforce all labor laws in  
20 [~~the State of~~] New Mexico, the enforcement of which is not  
21 specifically and exclusively vested in any other officer, board  
22 or commission, state or federal [~~and~~]. Whenever, after due  
23 inquiry, [~~he shall be~~] the division is satisfied that any such  
24 law has been violated or that any employee or ex-employee,  
25 financially unable to employ counsel, has a just, valid and

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1 enforceable claim for wages or other claims or demands, [~~he~~]  
2 the division shall present the facts to the district attorney  
3 of the county in which [~~such~~] the violation occurred or wage  
4 claim accrued, and it shall be the duty of [~~such~~] the district  
5 attorney to prosecute the same. [~~Said labor commissioner~~] The  
6 division shall also prosecute claims arising as between  
7 employment agencies and those seeking employment when, in [~~his~~]  
8 the division's judgment, they are valid and enforceable in the  
9 courts."

10 SECTION 45. Section 50-1-4 NMSA 1978 (being Laws 1931,  
11 Chapter 9, Section 10) is amended to read:

12 "50-1-4. ANNUAL REPORT.--The [~~commissioner~~] labor  
13 relations division of the commerce department shall collect,  
14 systematize and present in annual reports to the governor  
15 statistical details relating to [~~his office~~] the division and  
16 especially as bearing upon the commercial, social and sanitary  
17 conditions of the employees and the means of escape from  
18 dangers incident to their employment; the protection of life  
19 and health in factory or other places of employment; the labor  
20 of women and children and the hours of labor exacted from them;  
21 and, in general, all matters [~~which~~] that tend to affect the  
22 prosperity of the mechanical, manufacturing and productive  
23 industries of this state and of the persons employed [~~therein~~]  
24 in those industries."

25 SECTION 46. Section 50-1-5 NMSA 1978 (being Laws 1931,

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1 Chapter 9, Section 11) is amended to read:

2 "50-1-5. INSPECTIONS--OBSTRUCTING--NOTICE--OFFENSES--  
3 PENALTIES.--~~[Said labor commissioner shall have the power to]~~

4 A. Inspectors of the labor relations division of  
5 the commerce department may enter any store, factory, foundry,  
6 mill, office, workshop, mine or public or private works at any  
7 time during working hours and remain as long as necessary ~~[for~~  
8 ~~the purpose of gathering]~~ to gather facts and statistics  
9 contemplated by ~~[this Act and]~~ Chapter 50, Article 1 NMSA 1978,  
10 to examine safeguards and methods of protection from danger to  
11 employees and the sanitary conditions of the buildings and  
12 surroundings and to make a record thereof ~~[and]~~. Any owner,  
13 corporation, occupant or officer who ~~[shall refuse such]~~  
14 refuses entry to ~~[said labor commissioner his officers or~~  
15 ~~agents shall be]~~ an inspector is guilty of a misdemeanor and  
16 upon conviction ~~[thereof]~~ shall be punished by a fine of not  
17 less than fifty dollars ~~[nor]~~ (\$50.00) or more than five  
18 hundred dollars (\$500) or by imprisonment in the county jail  
19 for a definite term not less than ten days ~~[nor]~~ or more than  
20 thirty days or by both such fine and imprisonment. ~~[Provided,~~  
21 ~~that said labor commissioner or his agent or agents]~~

22 B. An inspector shall, upon entering any store,  
23 factory, foundry, mill, office, workshop, mine or any other  
24 public or private works, notify the owner, manager,  
25 superintendent or anyone in charge of such place of labor of

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1 [his] the inspector's intention to make [~~such~~] a visit of  
2 inspection, and [~~such~~] the owner, manager, superintendent or  
3 party in charge shall have the right, either [~~by himself~~] in  
4 person or by an agent, to accompany [~~such commissioner or his~~  
5 ~~agent or agents~~] the inspector during the entire time [~~he~~] the  
6 inspector spends upon [~~such~~] the premises. [~~And, provided,~~  
7 ~~further, that~~]

8 C. It [~~shall be~~] is unlawful for any [~~such labor~~  
9 ~~commissioner, his agent or agents, during the term of office to~~  
10 ~~which such commissioner shall have been appointed~~] employee of  
11 the labor relations division, to either directly or indirectly,  
12 verbally or by written or printed matter, advocate the  
13 organization or changes in organization or the attempt at  
14 disorganization of a labor organization or a labor [~~unions~~]  
15 union or to officially do any act either for or against any  
16 political party in [~~the State of~~] New Mexico. [~~Any~~  
17 ~~commissioner, or his agent or agents~~]

18 D. An inspector or other employee of the division who  
19 [~~fail~~] fails to give [~~such~~] notice of [~~such~~] a visit or refuses  
20 [~~such~~] the owner, manager, superintendent or party in charge,  
21 or [~~his~~] an agent, the right to accompany [~~him~~] the inspector  
22 at all times on visits of inspection provided for [~~herein~~] in  
23 this section or who participates in the organization, changing  
24 or disorganization of the labor union or labor association,  
25 contrary to the provisions [~~hereof~~] of this section, or who

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1 officially does any act for or against any political party in  
2 [~~the State of~~] New Mexico [~~during his term of office, shall be~~  
3 ~~deemed~~] is guilty of a misdemeanor and upon conviction  
4 [~~thereof~~] shall be fined [~~any sum~~] in an amount not less than  
5 fifty dollars [~~nor~~] (\$50.00) or more than five hundred dollars  
6 (\$500) or by imprisonment in the county jail [~~of~~] for a  
7 definite term not less than ten days [~~nor~~] or more than thirty  
8 days or by both such fine and imprisonment."

9 SECTION 47. Section 50-1-6 NMSA 1978 (being Laws 1931,  
10 Chapter 9, Section 12) is amended to read:

11 "50-1-6. FREE EMPLOYMENT AGENCY.--The [~~labor~~  
12 ~~commissioner~~] work force transition services division of the  
13 commerce department may, if deemed necessary, maintain and  
14 operate a free employment agency for the purpose of supplying  
15 labor to all branches of industry."

16 SECTION 48. Section 50-1-7 NMSA 1978 (being Laws 1931,  
17 Chapter 9, Section 13, as amended) is amended to read:

18 "50-1-7. REPORTING VIOLATIONS OF LABOR AND INDUSTRIAL  
19 LAWS.--[~~It is the duty of~~] The director of the labor [~~and~~  
20 ~~industrial~~] relations division of the [~~labor~~] commerce  
21 department [~~to~~] shall report to the district attorney of the  
22 district in which such violations occur any violation of labor  
23 and industrial laws of New Mexico [~~and~~]. It is the duty of the  
24 district attorneys of the several districts, upon the complaint  
25 of the director, to prosecute all violations of law [~~which may~~

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1 be] that are reported to the district attorney by the  
2 director."

3 SECTION 49. Section 50-4-8 NMSA 1978 (being Laws 1937,  
4 Chapter 109, Section 8, as amended) is amended to read:

5 "50-4-8. DUTIES OF THE [~~LABOR COMMISSIONER~~] DIRECTOR.--

6 A. [~~It is the duty of the labor commissioner to~~] The  
7 director of the labor relations division of the commerce  
8 department shall investigate any violations of Sections  
9 50-4-1 through 50-4-12 NMSA 1978 and [~~to~~] institute or cause to  
10 be instituted actions for [~~the~~] their enforcement [~~of the~~  
11 ~~same~~]. The [~~labor commissioner~~] director may hold hearings to  
12 [~~satisfy himself as to~~] determine the justice of any claim, and  
13 [~~he~~] the director shall cooperate with any employee in the  
14 enforcement of any claim against [~~his~~] the employee's employer  
15 whenever, in the opinion of the [~~labor commissioner~~] director,  
16 the claim is just and valid.

17 B. It is the duty of all district attorneys to  
18 prosecute all cases, both civilly and criminally, [~~which~~] that  
19 are referred to them by the [~~labor commissioner~~] director.

20 C. It shall not be a defense to any action brought  
21 pursuant to this section that the plaintiff or complainant is  
22 an undocumented worker. It is not intended by this section to  
23 create any right to collect unemployment compensation nor to  
24 mandate any wage rate."

25 SECTION 50. Section 50-4-9 NMSA 1978 (being Laws 1937,

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1 Chapter 109, Section 9) is amended to read:

2 "50-4-9. RECORDS, SUBPOENAS, ETC.--

3 [~~(a)~~] A. Every employer shall keep a true and  
4 accurate record of hours worked and wages paid to each  
5 employee. The employer shall keep such records on file for at  
6 least one year after the entry of the record.

7 [~~(b)~~] B. The labor [~~commissioner and his authorized~~  
8 ~~representatives~~] relations division of the commerce department  
9 shall have the right at all reasonable times to inspect such  
10 records for the purpose of ascertaining whether the provisions  
11 of [~~this act~~] Sections 50-4-1 through 50-4-12 NMSA 1978 are  
12 complied with.

13 [~~(c)~~] C. Any interference with the [~~labor~~  
14 ~~commissioner or his authorized representatives~~] division in the  
15 performance of [~~their~~] its duties shall be deemed a violation  
16 of [~~this act~~] Sections 50-4-1 through 50-4-12 NMSA 1978 and  
17 punished as such.

18 [~~(d)~~] D. The [~~labor commissioner and his authorized~~  
19 ~~representatives~~] division shall have the power to administer  
20 oaths and examine witnesses under oath, issue subpoenas, compel  
21 the attendance of witnesses and the production of payroll  
22 records and take depositions and affidavits in any proceedings  
23 before [~~said labor commissioner~~] the director.

24 [~~(e)~~] E. In case of failure of [~~any~~] a person to  
25 comply with [~~any~~] a subpoena lawfully issued or upon the

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1 refusal of [~~any~~] a witness [~~or witnesses~~] to testify [~~upon~~] on  
2 any matter on which [~~he or they~~] the witness may be lawfully  
3 interrogated, the [~~labor commissioner~~] director may apply to  
4 the district court in the proper county or to the judge thereof  
5 for a writ of attachment to compel [~~said~~] the witness to  
6 respond to [~~said~~] the subpoena or to testify, as the case may  
7 be."

8 SECTION 51. Section 50-4-11 NMSA 1978 (being Laws 1937,  
9 Chapter 109, Section 12, as amended) is amended to read:

10 "50-4-11. WAGE CLAIMS--LIENS--ASSIGNMENT.--

11 A. The labor [~~commissioner shall have power and~~  
12 ~~authority to~~] relations division of the commerce department  
13 may:

14 (1) take assignments of wage claims of employees  
15 against employers [~~and shall also have power to~~];

16 (2) take assignments of liens upon real or  
17 personal property securing the claims of employees and laborers  
18 [~~and shall have power and authority to~~]; and

19 (3) prosecute actions for the collection of such  
20 claims and for the foreclosure of liens of such persons  
21 securing such claims of persons who, in the judgment of the  
22 [~~labor commissioner~~] division, are entitled to the services of  
23 the [~~labor commissioner~~] division and who, in [~~his~~] the  
24 division's judgment, have claims or liens or both [~~which~~] that  
25 are valid and [~~enforceable~~] enforceable in the courts.

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1           B. In cases where the [~~commissioner~~] division has  
2 taken assignments of labor claims [~~which~~] that are lienable  
3 under the lien laws of [~~the state of~~] New Mexico, [~~he shall~~  
4 ~~have power to~~] the division may join any number of claimants in  
5 one statement of claim or lien and, in case of suit, [~~to~~] may  
6 join any number of claimants in one cause of action."

7           SECTION 52. Section 50-4-12 NMSA 1978 (being Laws 1937,  
8 Chapter 109, Section 13, as amended) is amended to read:

9           "50-4-12. WAGE CLAIM ACTIONS--COSTS--JURISDICTION--  
10 REPRESENTATION BY DISTRICT ATTORNEY--APPEALS.--

11           A. In all actions brought by the [~~director of the~~]  
12 labor [~~and industrial~~] relations division of the [~~labor~~]  
13 commerce department as assignee under the provisions of Section  
14 50-4-11 NMSA 1978, the [~~director~~] division shall be entitled to  
15 free process and shall not be obligated or required to give any  
16 bond or other security for costs.

17           B. Any sheriff, constable or other officer requested  
18 by the [~~director~~] division to serve any summons, writ,  
19 complaint or order shall do so without requiring the [~~director~~]  
20 division to pay any fees or furnish any security or bond.

21           C. Where all claims joined together do not exceed in  
22 the aggregate the jurisdictional limit of the magistrate or  
23 metropolitan court, the [~~director~~] division may institute an  
24 action against the employer in any magistrate or metropolitan  
25 court having jurisdiction without referring the claim to the

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1 district attorney. In the event that during the course of the  
2 proceedings representation by an attorney at law becomes  
3 necessary or, in the [~~director's~~] division's judgment,  
4 advisable, the [~~director~~] division shall so notify the district  
5 attorney, and it shall then be the duty of the district  
6 attorney or the district attorney's assistant to appear for the  
7 [~~director~~] division in the cause.

8 D. In the event the cause is appealed by the  
9 [~~director~~] division, no bond or other security shall be  
10 required or fees charged the [~~director~~] division for court  
11 costs or sheriff's fees in serving process."

12 SECTION 53. Section 50-4-16 NMSA 1978 (being Laws 1933,  
13 Chapter 149, Section 6) is amended to read:

14 "50-4-16. TIME RECORDS--INSPECTION.--

15 A. Every employer to whom [~~this act applies~~] Sections  
16 50-4-13 through 50-4-18 NMSA 1978 applies shall be required to  
17 keep a time record showing the number of hours each [~~male~~]  
18 employee worked each day.

19 B. Such record shall be open at all reasonable hours  
20 to the inspection of the [~~State labor commissioner, his agents~~  
21 ~~or agent~~] labor relations division of the commerce department,  
22 record of which is required to be kept [~~as herein provided~~  
23 ~~for~~]."

24 SECTION 54. Section 50-4-21 NMSA 1978 (being Laws 1955,  
25 Chapter 200, Section 2, as amended) is amended to read:

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1 "50-4-21. DEFINITIONS.--As used in the Minimum Wage Act:

2 A. "employ" includes suffer or permit to work;

3 B. "employer" includes any individual, partnership,  
4 association, corporation, business trust, legal representative  
5 or any organized group of persons employing one or more  
6 employees at any one time, acting directly or indirectly in the  
7 interest of an employer in relation to an employee, but shall  
8 not include the United States, the state or any political  
9 subdivision of the state; provided, however, that for the  
10 purposes of Subsection A of Section 50-4-22 NMSA 1978,  
11 "employer" includes the state or any political subdivision of  
12 the state; and

13 C. "employee" includes an individual employed by an  
14 employer, but shall not include:

15 (1) an individual employed in domestic service  
16 in or about a private home;

17 (2) an individual employed in a bona fide  
18 executive, administrative or professional capacity and  
19 forepersons, superintendents and supervisors;

20 (3) an individual employed by the United States,  
21 the state or any political subdivision of the state; provided,  
22 however, that for the purposes of Subsection A of Section 50-4-  
23 22 NMSA 1978, "employee" includes an individual employed by the  
24 state or any political subdivision of the state;

25 (4) an individual engaged in the activities of

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1 an educational, charitable, religious or nonprofit organization  
2 where the employer-employee relationship does not, in fact,  
3 exist or where the services rendered to such organizations are  
4 on a voluntary basis. The employer-employee relationship shall  
5 not be deemed to exist with respect to an individual being  
6 served for purposes of rehabilitation by a charitable or  
7 nonprofit organization, notwithstanding the payment to the  
8 individual of a stipend based upon the value of the work  
9 performed by the individual;

10 (5) salespersons or employees compensated upon  
11 piecework, flat rate schedules or commission basis;

12 (6) students regularly enrolled in primary or  
13 secondary schools working after school hours or on vacation;

14 (7) registered apprentices and learners  
15 otherwise provided by law;

16 (8) persons eighteen years of age or under who  
17 are not students in a primary, secondary, vocational or  
18 training school;

19 (9) persons eighteen years of age or under who  
20 are not graduates of a secondary school;

21 (10) G.I. bill trainees while under training;

22 (11) seasonal employees of an employer obtaining  
23 and holding a valid certificate issued annually by the

24 [~~director of the~~] labor relations division of the [~~workforce~~  
25 ~~solutions~~] commerce department. The certificate shall state

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1 the job designations and total number of employees to be  
2 exempted. In approving or disapproving an application for a  
3 certificate of exemption, the [~~director~~] division shall  
4 consider the following:

5 (a) whether such employment shall be at an  
6 educational, charitable or religious youth camp or retreat;

7 (b) that such employment will be of a  
8 temporary nature;

9 (c) that the individual will be furnished  
10 room and board in connection with such employment, or if the  
11 camp or retreat is a day camp or retreat, the individual will  
12 be furnished board in connection with such employment;

13 (d) the purposes for which the camp or  
14 retreat is operated;

15 (e) the job classifications for the  
16 positions to be exempted; and

17 (f) any other factors that the [~~director~~]  
18 division deems necessary to consider;

19 (12) any employee employed in agriculture:

20 (a) if the employee is employed by an  
21 employer who did not, during any calendar quarter during the  
22 preceding calendar year, use more than five hundred man-days of  
23 agricultural labor;

24 (b) if the employee is the parent, spouse,  
25 child or other member of the employer's immediate family; for

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1 the purpose of this subsection, the employer shall include the  
2 principal stockholder of a family corporation;

3 (c) if the employee: 1) is employed as a  
4 hand-harvest laborer and is paid on a piece-rate basis in an  
5 operation that has been, and is customarily and generally  
6 recognized as having been, paid on a piece-rate basis in the  
7 region of employment; 2) commutes daily from the employee's  
8 permanent residence to the farm on which the employee is so  
9 employed; and 3) has been employed in agriculture less than  
10 thirteen weeks during the preceding calendar year;

11 (d) if the employee, other than an employee  
12 described in Subparagraph (c) of this paragraph: 1) is sixteen  
13 years of age or under and is employed as a hand-harvest  
14 laborer, is paid on a piece-rate basis in an operation that has  
15 been, and is generally recognized as having been, paid on a  
16 piece-rate basis in the region of employment; 2) is employed on  
17 the same farm as the employee's parent or person standing in  
18 the place of the parent; and 3) is paid at the same piece-rate  
19 as employees over age sixteen are paid on the same farm; or

20 (e) if the employee is principally engaged  
21 in the range production of livestock or in milk production;

22 (13) an employee engaged in the handling,  
23 drying, packing, packaging, processing, freezing or canning of  
24 any agricultural or horticultural commodity in its  
25 unmanufactured state; or

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1 (14) employees of charitable, religious or  
2 nonprofit organizations who reside on the premises of group  
3 homes operated by such charitable, religious or nonprofit  
4 organizations for persons who have a mental, emotional or  
5 developmental disability."

6 SECTION 55. Section 50-4-26 NMSA 1978 (being Laws 1955,  
7 Chapter 200, Section 5, as amended) is amended to read:

8 "50-4-26. ENFORCEMENT--PENALTIES--EMPLOYEES' REMEDIES.--

9 A. An employer who violates any of the provisions of  
10 the Minimum Wage Act is guilty of a misdemeanor and upon  
11 conviction shall be sentenced pursuant to the provisions of  
12 Section 31-19-1 NMSA 1978.

13 B. The [~~director of the~~] labor relations division of  
14 the [~~workforce solutions~~] commerce department shall enforce and  
15 prosecute violations of the Minimum Wage Act. The [~~director~~]  
16 division may institute in the name of the state an action in  
17 the district court of the county wherein the employer who has  
18 failed to comply with the Minimum Wage Act resides or has a  
19 principal office or place of business, for the purpose of  
20 prosecuting violations. The district attorney for the district  
21 wherein [~~any~~] a violation [~~hereof~~] occurs shall aid and assist  
22 the [~~director~~] division in the prosecution.

23 C. In addition to penalties provided pursuant to this  
24 section, an employer who violates any provision of Section  
25 50-4-22 NMSA 1978 shall be liable to the employees affected in

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1 the amount of their unpaid or underpaid minimum wages plus  
2 interest, and in an additional amount equal to twice the unpaid  
3 or underpaid wages.

4 D. An action to recover such liability may be  
5 maintained in any court of competent jurisdiction by any one or  
6 more employees for and on behalf of the employee or employees  
7 and for other employees similarly situated, or such employee or  
8 employees may designate an agent or representative to maintain  
9 such action on behalf of all employees similarly situated.

10 E. The court in any action brought under Subsection D  
11 of this section shall, in addition to any judgment awarded to  
12 the plaintiff or plaintiffs, allow costs of the action and  
13 reasonable attorney fees to be paid by the defendant. In any  
14 proceedings brought pursuant to the provisions of this section,  
15 the employee shall not be required to pay any filing fee or  
16 other court costs necessarily incurred in such proceedings.

17 F. In addition to any remedy or punishment provided  
18 pursuant to the Minimum Wage Act, a court may order appropriate  
19 injunctive relief, including requiring an employer to post in  
20 the place of business a notice describing violations by the  
21 employer as found by the court or a copy of a cease and desist  
22 order applicable to the employer."

23 SECTION 56. Section 50-4-27 NMSA 1978 (being Laws 1967,  
24 Chapter 188, Section 5) is amended to read:

25 "50-4-27. AUTHORITY OF [~~LABOR COMMISSIONER~~] DIVISION TO

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1 PROMULGATE RULES--HEARING ON RULES--NOTICE--PUBLICATION.--The  
2 [~~state labor commissioner shall have the authority to~~] labor  
3 relations division of the commerce department may promulgate  
4 [~~and issue~~] rules [~~and regulations~~] necessary to administer and  
5 accomplish the purposes of the Minimum Wage Act. Such rules  
6 [~~and regulations~~] shall be adopted after notice and public  
7 hearing. [~~A copy of the notice of hearing together with a copy~~  
8 ~~of the proposed regulations shall be filed with the librarian~~  
9 ~~of the supreme court library at least twenty days prior to the~~  
10 ~~hearing. In addition, a copy of the notice of hearing shall be~~  
11 ~~sent to all known interested persons. Any interested person~~  
12 ~~shall have the right to appear and present evidence.]"~~

13 SECTION 57. Section 50-4A-1 NMSA 1978 (being Laws 2009,  
14 Chapter 14, Section 1) is amended to read:

15 "50-4A-1. SHORT TITLE.--[~~This act~~] Chapter 50, Article 4A  
16 NMSA 1978 may be cited as the "Promoting Financial Independence  
17 for Victims of Domestic Abuse Act"."

18 SECTION 58. Section 50-4A-7 NMSA 1978 (being Laws 2009,  
19 Chapter 14, Section 7) is amended to read:

20 "50-4A-7. ENFORCEMENT.--

21 A. The [~~workforce solutions~~] commerce department [~~is~~  
22 ~~authorized to~~] shall enforce the Promoting Financial  
23 Independence for Victims of Domestic Abuse Act and [~~to~~]  
24 investigate complaints made by persons who claim to be  
25 aggrieved pursuant to the provisions of that act.

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1           B. The [~~workforce solutions~~] commerce department and  
2 the employee have the right to bring an action in violation of  
3 the Promoting Financial Independence for Victims of Domestic  
4 Abuse Act in a court of competent jurisdiction to enjoin  
5 further violations, recover actual damages sustained or both,  
6 together with costs and reasonable attorney fees."

7           **SECTION 59.** Section 50-6-14 NMSA 1978 (being Laws 1925,  
8 Chapter 79, Section 15, as amended) is amended to read:

9           "50-6-14. STATE CHILD LABOR INSPECTOR--APPOINTMENT--  
10 DIRECTION--QUALIFICATIONS.--There shall be a "state child labor  
11 inspector", appointed by and subject to the director of the  
12 labor [~~and industrial~~] relations division of the [~~labor~~]  
13 commerce department. The inspector must be qualified by  
14 special training and experience for this work and must pass a  
15 satisfactory examination given by the [~~director of the labor~~  
16 ~~and industrial division of the labor department~~] state  
17 personnel office."

18           **SECTION 60.** Section 50-7-4.1 NMSA 1978 (being Laws 1979,  
19 Chapter 204, Section 12, as amended) is amended to read:

20           "50-7-4.1. ADMINISTRATION.--

21           A. The [~~commissioner of labor shall appoint a~~  
22 ~~director of~~] apprenticeship [~~to be responsible for~~  
23 ~~effectuating~~] bureau of the labor relations division of the  
24 commerce department shall effectuate the policies set forth in  
25 Section 50-7-1 NMSA 1978, [~~to~~] carry out the policies approved

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1 by the [~~apprenticeship council~~] instructional support and  
2 vocational education division of the public education  
3 department and otherwise [~~to~~] execute the provisions of Chapter  
4 50, Article 7 NMSA 1978. [~~Such appointment shall be subject to~~  
5 ~~confirmation by a majority vote of the council. The~~  
6 ~~commissioner of labor shall appoint the director and such~~  
7 ~~additional personnel as may be necessary, subject to such laws~~  
8 ~~and practices as are applicable to appointment, service and~~  
9 ~~compensation of employees of the state.~~

10 Under the general direction of the commissioner of labor,  
11 the director in furtherance of the duties specified]

12 B. The bureau shall:

13 [~~A.~~] (1) encourage the voluntary participation  
14 of employers and employees in the furtherance of the objectives  
15 of Chapter 50, Article 7 NMSA 1978;

16 [~~B.~~] (2) devise necessary procedures and  
17 records;

18 [~~C.~~] (3) prepare statistical reports regarding  
19 apprenticeship;

20 [~~D.~~] (4) issue information related to  
21 apprenticeship; and

22 [~~E.~~] (5) perform such other duties as are  
23 necessary to carry out the intent of Chapter 50, Article 7 NMSA  
24 1978."

25 SECTION 61. Section 50-14-2 NMSA 1978 (being Laws 1999,

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1 Chapter 260, Section 2, as amended) is amended to read:

2 "50-14-2. DEFINITIONS.--As used in the Workforce

3 Development Act:

4 A. "board" means the state workforce development  
5 board;

6 B. "chief elected official" means the chief elected  
7 executive officer of a unit of general local government in a  
8 local area, and in a case in which a local area includes more  
9 than one unit of general local government, "chief elected  
10 official" means the person designated under the agreement  
11 described in Section 117 (c)(1)(B) of the federal Workforce  
12 Investment Act of 1998;

13 C. "employment training program" means a program or a  
14 part of a program, regardless of which state or local agency  
15 administers it, that has as its primary purpose assisting  
16 persons in obtaining or enhancing employment;

17 D. "local board" means a local workforce development  
18 board; and

19 E. "office" or "division" means the work force  
20 transition services division of the [~~workforce solutions~~]  
21 commerce department."

22 SECTION 62. Section 50-14-4 NMSA 1978 (being Laws 1999,  
23 Chapter 260, Section 4, as amended) is amended to read:

24 "50-14-4. DUTIES OF THE BOARD.--

25 A. The board shall assist the governor in:

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1                   (1) developing a five-year state plan that shall  
2 be updated annually and revised in accordance with the  
3 requirements of the federal Workforce Investment Act of 1998;

4                   (2) developing and improving the statewide  
5 activities funded pursuant to the workforce investment system  
6 and the one-stop delivery system, including development of  
7 linkages to ensure coordination and nonduplication among the  
8 programs and activities described in the federal Workforce  
9 Investment Act of 1998;

10                   (3) reviewing local plans;

11                   (4) commenting annually on the measures taken  
12 pursuant to Section 113(b)(14) of the federal Carl D. Perkins  
13 Vocational and Applied Technology Education Act;

14                   (5) developing allocation formulas for adult and  
15 youth employment training program funds to local areas in  
16 accordance with the federal Workforce Investment Act of 1998;

17                   (6) developing comprehensive state performance  
18 measures to assess the effectiveness of work force investment  
19 activities pursuant to the federal Workforce Investment Act of  
20 1998;

21                   (7) designating local work force development  
22 areas;

23                   (8) developing the statewide employment  
24 statistics system; and

25                   (9) preparing reports and applications required

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1 for submission to the federal government.

2 B. The board shall also:

3 (1) review, evaluate and report annually on the  
4 performance of all work force development activities  
5 administered by state agencies involved with work force  
6 development;

7 (2) develop linkages with the public education  
8 department and the [~~commission on~~] higher education department  
9 to ensure coordination and nonduplication of vocational  
10 education, apprenticeship, adult education, employment training  
11 programs and vocational rehabilitation programs with other work  
12 force development and training programs; and

13 (3) provide policy advice regarding the  
14 application of federal or state law that pertains to work force  
15 development.

16 C. To assist the board in fulfilling its duties, it  
17 is authorized to establish committees, one of which shall be a  
18 "coordination oversight committee". Except as provided for the  
19 coordination oversight committee in Subsections D and E of this  
20 section, the board shall appoint committee members and assign  
21 duties to committees as the board deems appropriate. The chair  
22 of the board shall appoint committee chairs from among members  
23 of the board.

24 D. The coordination oversight committee shall consist  
25 of the secretaries of [~~economic development~~] commerce, human

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1 services, [~~labor and~~] public education and higher education; a  
2 representative from community colleges; [~~a representative from~~  
3 ~~the commission on higher education~~] a representative of labor;  
4 two legislators from different political parties, one from the  
5 senate and one from the house of representatives; the director  
6 of the [~~office~~] division; and the committee chair.

7 E. The duties of the coordination oversight committee  
8 include the following:

9 (1) the secretaries of [~~economic development,~~  
10 ~~labor~~] commerce and human services shall propose five-, ten-  
11 and fifteen-year regional and statewide strategic plans for  
12 employment growth and training in New Mexico for the  
13 committee's consideration and possible recommendation for  
14 approval to the board as part of the state plan;

15 (2) the [~~secretary~~] secretaries of public  
16 education and [~~the representative from the commission on~~  
17 higher education shall propose appropriate education plans for  
18 secondary education that address the strategic plans proposed  
19 by the secretaries of [~~economic development~~] commerce and human  
20 services [~~and labor~~] for the committee's consideration and  
21 possible recommendation for approval to the board as part of  
22 the state plan;

23 (3) the committee's proposals to the board shall  
24 facilitate a career pathways culture and, at a minimum, include  
25 reference to foundation skills as developed by the United

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1 States secretary of labor's commission on achieving necessary  
2 skills, a job analysis that the [~~economic development~~] commerce  
3 department shall produce after consultation with incumbent  
4 workers and employers, an available skills assessment and  
5 training targets;

6 (4) the [~~board~~] committee member from the  
7 community colleges shall solicit input from the community  
8 college constituency and work with regional and statewide  
9 businesses and other partners and the [~~economic development~~]  
10 commerce department to create career pathways and align  
11 curriculum and facilitate plans with the [~~economic development~~]  
12 commerce department and human services department [~~and labor~~  
13 ~~department~~] strategic plans;

14 (5) the committee shall, after consultation with  
15 the [~~state chief information officer~~] department of information  
16 technology, develop and propose strategies for coordination of  
17 information technology for the purposes of providing  
18 participants access to all appropriate state services;  
19 collecting and managing data to allow reporting and analysis of  
20 uniform performance data related to all appropriate employment  
21 training programs; and sharing and integrating appropriate work  
22 force data across agencies and appropriate nongovernmental  
23 partners for identifying needs, setting policy and coordinating  
24 strategies;

25 (6) the committee shall recommend for the

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1 board's approval the coordination of program designs to avoid  
2 duplication or unproductive segmentation of services; and

3 (7) the committee shall recommend for the  
4 board's approval the coordination of state agency efforts to  
5 progress toward comprehensive, customer-driven one-stop centers  
6 through co-location of mandatory and recommended partner  
7 service delivery points for work force development.

8 F. All state agencies involved in work force  
9 development activities shall annually submit to the board for  
10 its review and potential inclusion in the five-year plan their  
11 goals, objectives and policies. The plan shall include  
12 recommendations to the legislature on the modification,  
13 consolidation, initiation or elimination of work force training  
14 and education programs in the state."

15 SECTION 63. Section 50-14-9 NMSA 1978 (being Laws 2005,  
16 Chapter 111, Section 10, as amended) is amended to read:

17 "50-14-9. WORK FORCE TRANSITION SERVICES DIVISION.--

18 A. The "work force transition services division" is  
19 created in the [~~workforce solutions~~] commerce department.

20 B. The division shall be the recipient of all grants  
21 from the United States pursuant to the federal Workforce  
22 Investment Act of 1998 and shall disburse those grants  
23 consistent with that act and the Workforce Development Act.

24 C. The division shall administer the provisions of  
25 the Workforce Development Act and is the governor's designee

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1 for the state with authority to administer New Mexico's program  
2 pursuant to the federal Workforce Investment Act of 1998. In  
3 performance of that duty and the duties set forth in Section  
4 50-14-10 NMSA 1978, the division has the general power to:

5 (1) sue and, subject to the provisions of the  
6 Tort Claims Act, be sued;

7 (2) enter into contracts, joint powers  
8 agreements and other contracts for work force development  
9 services and administer related programs with other state  
10 agencies; local governments; state institutions of higher  
11 learning; Indian nations, tribes or pueblos; regional provider  
12 networks; and corporations authorized to do business in the  
13 state;

14 (3) take administrative action by issuing orders  
15 and instructions, not inconsistent with law, to ensure  
16 implementation of and compliance with the provisions of law for  
17 which the division is responsible and to enforce those orders  
18 and instructions by appropriate administrative actions or  
19 actions in courts;

20 (4) promulgate, following the procedure in  
21 Subsection E of Section 9-1-5 NMSA 1978, reasonable rules  
22 necessary to carry out the duties of the division; and

23 (5) take all other actions necessary to meet the  
24 purposes of the Workforce Development Act."

25 **SECTION 64.** Section 50-15-1 NMSA 1978 (being Laws 2005,

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1 Chapter 257, Section 1) is amended to read:

2 "50-15-1. SHORT TITLE.--~~[Sections 1 through 7 of this~~  
3 ~~act]~~ Chapter 50, Article 15 NMSA 1978 may be cited as the "Day  
4 Laborer Act"."

5 SECTION 65. Section 50-15-2 NMSA 1978 (being Laws 2005,  
6 Chapter 257, Section 2, as amended) is amended to read:

7 "50-15-2. DEFINITIONS.--As used in the Day Laborer Act:

8 A. "check cashing service" means a business that for  
9 a fee offers to cash checks or other payment instruments or  
10 that advertises that it cashes checks or other payment  
11 instruments;

12 B. "day labor" means employment that is under a  
13 contract between a day labor service agency and a third-party  
14 employer, that is occasional or irregular and that is for a  
15 limited time period;

16 C. "day labor service agency" means an entity,  
17 including a labor broker or labor pool, that provides day  
18 laborers to third-party employers and that charges the third-  
19 party employer for the service of providing day laborers for  
20 employment offered by the employer;

21 D. "day laborer" means a person who contracts for day  
22 labor employment with a day labor service agency;

23 E. "department" means the ~~[workforce solutions]~~  
24 commerce department;

25 F. "office worker" means a person employed to perform

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1 clerical, secretarial or other semiskilled or skilled work that  
2 is predominantly performed in an office setting;

3 G. "payment instrument" means a paycheck, payment  
4 voucher or other negotiable instrument from an employer  
5 provided to an employee to pay for hours worked; and

6 H. "third-party employer" means a person that  
7 contracts with a day labor service agency for the employment of  
8 day laborers."

9 SECTION 66. Section 51-1-2 NMSA 1978 (being Laws 1979,  
10 Chapter 280, Section 11, as amended) is amended to read:

11 "51-1-2. DEFINITIONS.--As used in the Unemployment  
12 Compensation Law:

13 A. "department" means the [~~workforce solutions~~]  
14 commerce department;

15 B. "division" means the work force transition  
16 services division of the department, the director of the  
17 division or an employee of the division exercising authority  
18 lawfully delegated to the employee by the director; and

19 C. "secretary" means the secretary of [~~workforce~~  
20 ~~solutions~~] commerce or an employee of the department exercising  
21 authority lawfully delegated to the employee by the secretary."

22 SECTION 67. Section 53-7B-1 NMSA 1978 (being Laws 2009,  
23 Chapter 66, Section 1) is amended to read:

24 "53-7B-1. SHORT TITLE.--[~~Sections 1 through 10 of this~~  
25 ~~act~~] Chapter 53, Article 7B NMSA 1978 may be cited as the "New

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1 Mexico Research Applications Act".

2 SECTION 68. Section 53-7B-3 NMSA 1978 (being Laws 2009,  
3 Chapter 66, Section 3) is amended to read:

4 "53-7B-3. DEFINITIONS.--As used in the New Mexico  
5 Research Applications Act:

6 A. "board" means the board of directors of the  
7 research applications center;

8 B. "department" means the [~~economic development~~]  
9 commerce department;

10 C. "research applications center" means the nonprofit  
11 corporation created pursuant to the Nonprofit Corporation Act  
12 and the New Mexico Research Applications Act;

13 D. "technological innovations" includes research,  
14 development, prototype assembly, manufacturing, patenting,  
15 licensing, marketing and sale of inventions, ideas, practices,  
16 applications, processes, machines and technology and related  
17 property rights of all kinds; and

18 E. "university" means:

19 (1) a New Mexico educational institution named  
20 in Article 12, Section 11 of the constitution of New Mexico;

21 (2) a community college organized pursuant to  
22 the Community College Act or pursuant to Chapter 21, Article 14  
23 NMSA 1978; or

24 (3) a technical and vocational institute  
25 organized pursuant to the Technical and Vocational Institute

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1 Act."

2 SECTION 69. Section 57-3C-1 NMSA 1978 (being Laws 2001,  
3 Chapter 346, Section 1) is amended to read:

4 "57-3C-1. SHORT TITLE.--~~[This act]~~ Chapter 57, Article 3C  
5 NMSA 1978 may be cited as the "Patent and Copyright Act"."

6 SECTION 70. Section 57-3C-2 NMSA 1978 (being Laws 2001,  
7 Chapter 346, Section 2) is amended to read:

8 "57-3C-2. DEFINITIONS.--As used in the Patent and  
9 Copyright Act:

10 A. "department" means the [~~economic development~~]  
11 commerce department;

12 B. "patent" means the grant of certain property  
13 rights in an invention, as defined in federal patent laws, to  
14 an inventor that includes the right to exclude others from  
15 making, using, offering for sale, selling or importing the  
16 invention; and

17 C. "copyright" means the property rights, as defined  
18 in federal copyright laws, in original works of authorship."

19 SECTION 71. Section 58-31-1 NMSA 1978 (being Laws 2005,  
20 Chapter 128, Section 1) is amended to read:

21 "58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article 31  
22 NMSA 1978 may be cited as the "Spaceport Development Act"."

23 SECTION 72. Section 58-31-4 NMSA 1978 (being Laws 2005,  
24 Chapter 128, Section 4) is amended to read:

25 "58-31-4. SPACEPORT AUTHORITY CREATED--MEMBERSHIP.--

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1           A. The "spaceport authority" is created. The  
2 authority is a state agency and is administratively attached to  
3 the [~~economic development~~] commerce department.

4           B. The authority shall consist of seven voting and  
5 [~~two~~] one nonvoting members, six of whom shall be appointed by  
6 the governor with the consent of the senate; provided that one  
7 of the appointed members shall be a resident of Sierra county.  
8 No more than three appointed members shall belong to the same  
9 political party. The seventh member shall be the secretary of  
10 [~~economic development~~] commerce or the secretary's designee.  
11 The lieutenant governor shall serve as a nonvoting ex-officio  
12 member. [~~The executive director of the authority shall serve~~  
13 ~~as a nonvoting member.~~] The chair may appoint a nonvoting  
14 advisory committee to provide advice and recommendations on  
15 authority matters.

16           C. The members appointed by the governor shall be  
17 residents of the state and shall serve for terms of four years,  
18 except for the initial appointees who shall be appointed so  
19 that the terms are staggered after initial appointment.  
20 Initial appointees shall serve terms as follows: two members  
21 for two years, two members for three years and two members for  
22 four years.

23           D. Appointed voting members of the authority [~~shall~~]  
24 are entitled to be reimbursed for per diem and mileage in  
25 accordance with the provisions of the Per Diem and Mileage Act

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1 that apply to [~~nonsalaried public officers, unless a different~~  
2 ~~provision of that act applies to a specific member, in which~~  
3 ~~case that member shall be paid under the applicable provision]~~  
4 state employees. Members and advisors shall receive no other  
5 compensation, perquisite or allowance for serving as a member  
6 of or advisor to the authority.

7 E. The secretary of [~~economic development~~] commerce  
8 or the secretary's designee shall serve as the chair of the  
9 authority. Authority members shall elect any other officers  
10 from the membership that the authority determines appropriate.

11 F. The chair, four other authority voting members  
12 appointed by the chair and the executive director of the  
13 authority shall constitute the spaceport authority executive  
14 committee. The committee shall have powers and duties as  
15 delegated to it by the authority.

16 G. If a vacancy occurs among the appointed voting  
17 members of the authority, the governor shall appoint a  
18 replacement to serve out the term of the former member. If an  
19 appointed member's term expires, the member shall continue to  
20 serve until the member is reappointed or another person is  
21 appointed and [~~confirmed by the senate to replace the member~~]  
22 qualified.

23 H. The authority shall meet at the call of the chair  
24 and shall meet in regular session at least once every three  
25 months.

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1 I. The authority shall maintain written minutes of  
2 all meetings of the authority and maintain other appropriate  
3 records, including financial transaction records in compliance  
4 with law and adequate to provide an accurate record for audit  
5 purposes pursuant to the Audit Act."

6 SECTION 73. Section 67-16-1 NMSA 1978 (being Laws 1985,  
7 Chapter 23, Section 1) is amended to read:

8 "67-16-1. SHORT TITLE.--~~[This act]~~ Chapter 67, Article 16  
9 NMSA 1978 may be cited as the "Litter Control and  
10 Beautification Act"."

11 SECTION 74. Section 67-16-3 NMSA 1978 (being Laws 1985,  
12 Chapter 23, Section 3, as amended) is amended to read:

13 "67-16-3. DEFINITIONS.--As used in the Litter Control and  
14 Beautification Act:

15 A. "keep America beautiful system" means a  
16 comprehensive program to improve waste handling practices and  
17 the control of litter;

18 B. "keep New Mexico beautiful, incorporated" is the  
19 statewide organization that is the official clearinghouse for  
20 beautification projects in the state;

21 [~~C.~~ "council" means the litter control council;

22 ~~D.~~ C. "department" means the [~~tourism~~] commerce  
23 department;

24 [~~E.~~ D. "litter" means weeds, graffiti and all waste  
25 material, including disposable packages or containers, but not

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1 including the waste of the primary processes of mining,  
2 logging, sawmilling or farming;

3 [F-] E. "person" means an individual, corporation,  
4 partnership, association, firm, receiver, guardian, trustee,  
5 executor, administrator, fiduciary or representative or group  
6 of individuals or entities of any kind;

7 [G-] F. "public place" means an area that is used or  
8 held out for use by the public, whether owned or operated by  
9 public or private interests; and

10 [H-] G. "recycling" means the collection, separation  
11 or processing and return to the economic mainstream of raw  
12 materials or products that would otherwise become solid waste."

13 **SECTION 75.** Section 67-16-5 NMSA 1978 (being Laws 1985,  
14 Chapter 23, Section 5) is amended to read:

15 "67-16-5. LITTER CONTROL COORDINATOR.--The department  
16 shall appoint a litter control coordinator to coordinate [~~the~~  
17 ~~activities of the council within three months after the~~  
18 ~~effective date of the Litter Control and Beautification Act]~~  
19 state and local beautification efforts."

20 **SECTION 76.** Section 67-16-7 NMSA 1978 (being Laws 1989,  
21 Chapter 10, Section 4) is amended to read:

22 "67-16-7. MEASUREMENT AND EVALUATION.--The department  
23 shall document and report on an annual basis the effectiveness  
24 and impact of [~~council-sponsored~~] department-sponsored litter  
25 control and beautification programs through the following:

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1           A. evaluate and report on all governmental entities  
2 and keep New Mexico beautiful, incorporated projects and  
3 activities funded by the [~~council~~] department. The photometric  
4 index technique shall be a part of this report in communities  
5 where appropriate and available;

6           B. evaluate and report on the placement and  
7 management of litter receptacles placed on state property as  
8 funded by the Litter Control and Beautification Act; and

9           C. investigate and report on the feasibility,  
10 appropriateness and cost of a statewide photometric index or  
11 other technique for the evaluation of highway litter."

12           **SECTION 77.** Section 67-16-10 NMSA 1978 (being Laws 1985,  
13 Chapter 23, Section 10, as amended) is amended to read:

14           "67-16-10. LITTER BAG.--The [~~council~~] department shall  
15 design and produce a litter bag bearing the state anti-litter  
16 symbol, Dusty Roadrunner, and a statement of the penalties  
17 prescribed for littering. Litter bags shall be distributed by  
18 the motor vehicle division of the taxation and revenue  
19 department and the department of game and fish at no charge at  
20 the time and place of the issuance of licenses or renewal  
21 thereof. The state may provide litter bags at no charge to  
22 tourists and visitors at points of entry into the state. The  
23 [~~council~~] department may establish a distribution system with  
24 the aid of private industry."

25           **SECTION 78.** Section 67-16-12 NMSA 1978 (being Laws 1985,

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1 Chapter 23, Section 12, as amended) is amended to read:

2 "67-16-12. FURTHER DUTIES OF DEPARTMENT.--

3 A. The department shall:

4 (1) serve as the coordinating agency between  
5 various industry and business organizations seeking to aid in  
6 the anti-litter effort;

7 (2) cooperate with all local governments to  
8 accomplish coordination of local anti-litter efforts;

9 (3) encourage voluntary local anti-litter  
10 campaigns seeking to focus the attention of the public on  
11 programs to control and remove litter;

12 (4) encourage voluntary recycling programs and  
13 aid in identifying programs and available markets for recycled  
14 materials;

15 (5) apply for funds available from any other  
16 source for use in the administration of the Litter Control and  
17 Beautification Act;

18 (6) adopt rules to enter into contracts for  
19 making either direct or matching grants with other state  
20 agencies, cities or counties or with an Indian nation, tribe or  
21 pueblo government for the purpose of promoting local keep  
22 America beautiful system programs; and

23 (7) aid in the adoption and enforcement of model  
24 anti-litter statutes and ordinances and improve state and local  
25 litter control programs.

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1           B. The department shall also allocate funds  
2 appropriated to it from the litter control and beautification  
3 fund according to the following formula:

4                   (1) no more than fifteen percent of the fees  
5 received in a year for directly related operating expenses  
6 [~~directly related to the administration of the council~~],  
7 including:

8                           (a) research, development and implementation  
9 of a statewide evaluation system;

10                           (b) professional services provided to the  
11 state by representatives of keep America beautiful,  
12 incorporated; and

13                           (c) the promotion of and encouragement of  
14 private recycling efforts for all recyclable items;

15                   (2) no more than twenty percent of the fees  
16 received in a year to purchase litter bags and receptacles and  
17 to conduct a public awareness and media campaign to include  
18 brochures, literature and educational materials, production of  
19 public service announcements and other expenses relating to  
20 public relations;

21                           (3) no more than fifty percent of the fees  
22 received in a year to local governments to establish and help  
23 continue local keep America beautiful system programs;

24                           (4) no more than sixty percent of the fees  
25 received in a year to local governments to establish a summer

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1 youth employment program to aid in litter control and  
2 beautification projects; and

3 (5) no more than ten percent of fees received in  
4 a year to keep New Mexico beautiful, incorporated to further  
5 beautification and educational programs."

6 SECTION 79. A new section of the Human Rights Act is  
7 enacted to read:

8 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
9 REPEAL--HUMAN RIGHTS COMMISSION.--The human rights commission  
10 is terminated on July 1, 2017 pursuant to the provisions of the  
11 Sunset Act. The commission shall continue to operate according  
12 to the provisions of the Human Rights Act until July 1, 2018.  
13 Effective July 1, 2018, the Human Rights Act is repealed."

14 SECTION 80. A new section of the New Mexico-Chihuahua  
15 Commission Act is enacted to read:

16 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
17 REPEAL--NEW MEXICO-CHIHUAHUA COMMISSION.--The New Mexico-  
18 Chihuahua commission is terminated on July 1, 2015 pursuant to  
19 the provisions of the Sunset Act unless continued by law. The  
20 provisions of the Sunset Act notwithstanding, there is no wind-  
21 up period for the commission and the New Mexico-Chihuahua  
22 Commission Act is repealed effective July 1, 2015."

23 SECTION 81. A new section of the New Mexico-Sonora  
24 Commission Act is enacted to read:

25 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED

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1 REPEAL--NEW MEXICO-SONORA COMMISSION.--The New Mexico-Sonora  
2 commission is terminated on July 1, 2015 pursuant to the  
3 provisions of the Sunset Act unless continued by law. The  
4 provisions of the Sunset Act notwithstanding, there is no wind-  
5 up period for the commission and the New Mexico-Sonora  
6 Commission Act is repealed effective July 1, 2015."

7 SECTION 82. A new section of Chapter 16, Article 16 NMSA  
8 1978 is enacted to read:

9 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
10 REPEAL--STATE FAIR COMMISSION.--The state fair commission is  
11 terminated on July 1, 2017 pursuant to the provisions of the  
12 Sunset Act. The commission shall continue to operate according  
13 to the provisions of Chapter 16, Article 6 NMSA 1978 until July  
14 1, 2018. Effective July 1, 2018, the state fair commission is  
15 repealed."

16 SECTION 83. A new section of the Spaceport Development  
17 Act is enacted to read:

18 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
19 REPEAL--SPACEPORT AUTHORITY.--The spaceport authority is  
20 terminated on July 1, 2017 pursuant to the provisions of the  
21 Sunset Act. The authority shall continue to operate according  
22 to the provisions of the Spaceport Development Act until July  
23 1, 2018. Effective July 1, 2018, the Spaceport Development Act  
24 is repealed; provided that no action of the legislature shall  
25 impair any outstanding bonds or the payments on those bonds."

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1           **SECTION 84.** A new section of Chapter 50, Article 1 NMSA  
2 1978 is enacted to read:

3           "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
4 REPEAL--LABOR AND INDUSTRIAL COMMISSION.--The labor and  
5 industrial commission is terminated on July 1, 2017 pursuant to  
6 the provisions of the Sunset Act. The commission shall  
7 continue to operate according to the provisions of Chapter 50,  
8 Article 1 NMSA 1978 until July 1, 2018. Effective July 1,  
9 2018, Chapter 50, Article 1 NMSA 1978 is repealed."

10           **SECTION 85.** A new section of the Workers' Compensation  
11 Administration Act is enacted to read:

12           "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
13 REPEAL--WORKERS' COMPENSATION ADMINISTRATION.--The workers'  
14 compensation administration is terminated on July 1, 2017  
15 pursuant to the provisions of the Sunset Act. The commission  
16 shall continue to operate according to the provisions of the  
17 Workers' Compensation Administration Act until July 1, 2018.  
18 Effective July 1, 2018, the Workers' Compensation  
19 Administration Act is repealed."

20           **SECTION 86.** A new section of the Workforce Development  
21 Act is enacted to read:

22           "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
23 REPEAL--WORKFORCE DEVELOPMENT BOARD.--The state workforce  
24 development board is terminated on July 1, 2017 pursuant to the  
25 provisions of the Sunset Act. The board shall continue to

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1 operate according to the provisions of the Workforce  
2 Development Act until July 1, 2018. Effective July 1, 2018,  
3 the Workforce Development Act is repealed."

4 SECTION 87. TEMPORARY PROVISION--TRANSFERS OF FUNCTIONS,  
5 APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY  
6 REFERENCES.--

7 A. On the effective date of this act, all functions,  
8 appropriations, money, records, furniture, equipment and other  
9 property of the economic development department, the tourism  
10 department, the workforce solutions department and the border  
11 authority are transferred to the commerce department.

12 B. On the effective date of this act, all contractual  
13 obligations of the economic development department, the tourism  
14 department and the workforce solutions department or any  
15 division or other subordinate unit of those departments and the  
16 border authority are binding on the commerce department.

17 C. On the effective date of this act, references in  
18 the law to the economic development department, the tourism  
19 department or the workforce solutions department or any  
20 divisions or other subordinate units of those departments or  
21 the border authority shall be deemed to be references to the  
22 commerce department unless otherwise specified by law.

23 D. The rules of the economic development department,  
24 the tourism department, the workforce solutions department and  
25 the border authority shall be deemed to be rules of the

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1 commerce department until amended or repealed by the commerce  
2 department.

3 E. On the effective date of this act, all functions,  
4 appropriations, money, records, furniture, equipment and other  
5 property of the New Mexico film museum are transferred to the  
6 cultural affairs department. All contractual obligations of  
7 the New Mexico film museum are binding on the cultural affairs  
8 department. All references in law to the museum or the board  
9 of trustees shall be deemed to be references to the cultural  
10 affairs department.

11 **SECTION 88. RECOMPILATION.**--Section 9-15-56 NMSA 1978  
12 (being Laws 2010, Chapter 87, Section 1) is recompiled into the  
13 Commerce Department Act.

14 **SECTION 89. REPEAL.**--

15 A. Economic Development Department Act, Sections  
16 9-15-1 through 9-15-55 NMSA 1978 (being Laws 1983, Chapter 297,  
17 Sections 1 through 4, Laws 2003, Chapter 97, Section 1, Laws  
18 1983, Chapter 297, Sections 5 through 7, Laws 1983, Chapter  
19 296, Section 21, Laws 1983, Chapter 297, Section 10, Laws 1988,  
20 Chapter 81, Section 5, Laws 1983, Chapter 297, Sections 12, 14  
21 and 15, Laws 1991, Chapter 21, Sections 21 through 24, Laws  
22 1994, Chapter 113, Section 2, Laws 1988, Chapter 80, Sections 3  
23 and 4, Laws 2005, Chapter 57, Section 1, Laws 1988, Chapter 80,  
24 Section 5, Laws 1989, Chapter 205, Sections 1 through 3, Laws  
25 2005, Chapter 67, Section 1, Laws 1991, Chapter 27, Sections 1

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1 and 2, Laws 1993, Chapter 211, Sections 1 through 5 and also  
2 Laws 1993, Chapter 216, Sections 1 through 5, Laws 2003,  
3 Chapter 166, Sections 1 through 4 and also Laws 2003, Chapter  
4 170, Sections 1 through 4 and Laws 2007, Chapter 180, Sections  
5 1 through 4, as amended) are repealed.

6 B. Tourism Department Act, Sections 9-15A-1 through  
7 9-15A-11 NMSA 1978 (being Laws 1991, Chapter 21, Sections 1  
8 through 4, Laws 2003, Chapter 299, Section 1, Laws 1991,  
9 Chapter 21, Sections 5 through 7, Laws 1996, Chapter 25,  
10 Section 1, Laws 1993, Chapter 101, Sections 10 and 11, Laws  
11 2007, Chapter 286, Sections 2 and 3 and Laws 2007, Chapter 287,  
12 Sections 2 and 3, as amended) are repealed.

13 C. Intertribal Ceremonial Act, Sections 9-15C-1  
14 through 9-15C-5 NMSA 1978 (being Laws 2005, Chapter 219,  
15 Sections 1 through 5, as amended) are repealed.

16 D. Workforce Solutions Department Act, Sections  
17 9-26-1 through 9-26-15 NMSA 1978 (being Laws 2007, Chapter 200,  
18 Sections 1 through 14 and 23) are repealed.

19 E. Small Business Regulatory Relief Act, Sections  
20 14-4A-1 through 14-4A-6 NMSA 1978 (being Laws 2005, Chapter  
21 244, Sections 1 through 6) are repealed.

22 F. New Mexico Film Museum Act, Sections 18-14-1  
23 through 18-14-6 NMSA 1978 (being Laws 2003, Chapter 250,  
24 Sections 1 through 6, as amended) are repealed.

25 G. Border Development Act, Sections 58-27-1 through

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1 58-27-26 NMSA 1978 (being Laws 1991, Chapter 131, Sections 1  
2 through 10 and 12 through 16, Laws 1993, Chapter 335, Section  
3 4, Laws 1995, Chapter 192, Section 10, Laws 1991, Chapter 131,  
4 Sections 17 through 25 and Laws 1995, Chapter 192, Section 21,  
5 as amended) are repealed.

6 H. Litter control council, Section 67-16-4 NMSA 1978  
7 (being Laws 1985, Chapter 23, Section 4, as amended) is  
8 repealed.

9 SECTION 90. EFFECTIVE DATE.--The effective date of the  
10 provisions of this act is January 1, 2011.