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HOUSE BILL 54

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

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; MERGING THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT WITH THE DEPARTMENT OF PUBLIC SAFETY; TRANSFERRING THE ADMINISTRATION OF THE ENHANCED 911 SERVICE PROGRAM TO THE HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY; REQUIRING THE DEPARTMENT OF INFORMATION TECHNOLOGY TO PROVIDE INFRASTRUCTURE FOR ENHANCED 911 SERVICES; TRANSFERRING THE FIRE MARSHAL DIVISION OF THE PUBLIC REGULATION COMMISSION TO THE DEPARTMENT OF PUBLIC SAFETY; ELIMINATING THE CRIME STOPPERS ADVISORY COUNCIL, MOUNTED PATROL BOARD OF DIRECTORS, DNA IDENTIFICATION SYSTEM OVERSIGHT COMMITTEE AND INTRASTATE MUTUAL AID COMMITTEE AND TRANSFERRING FUNCTIONS TO THE DEPARTMENT OF PUBLIC SAFETY; SUNSETTING THE INTEROPERABILITY PLANNING COMMISSION AND THE STATE EMERGENCY RESPONSE COMMISSION; PROVIDING FOR TRANSFERS OF FUNCTIONS, PERSONNEL,

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1 APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND  
2 REFERENCES; REPEALING THE HOMELAND SECURITY AND EMERGENCY  
3 MANAGEMENT DEPARTMENT ACT; AMENDING, REPEALING, RECOMPILING AND  
4 ENACTING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE  
5 AMENDMENTS TO THE SAME SECTIONS OF LAWS IN LAWS 2003, LAWS 2007  
6 AND LAWS 2009.

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

11 "3-18-7. ADDITIONAL COUNTY AND MUNICIPAL POWERS--FLOOD  
12 AND MUDSLIDE HAZARD AREAS--FLOOD PLAIN PERMITS--LAND USE  
13 CONTROL--JURISDICTION--AGREEMENT.--

14 A. For the purpose of minimizing or eliminating  
15 damage from floods or mudslides in federal emergency management  
16 agency and locally designated flood-prone areas and for the  
17 purpose of promoting health, safety and the general welfare, a  
18 county or municipality with identified flood or mudslide hazard  
19 areas shall by ordinance:

20 (1) designate and regulate flood plain areas  
21 having special flood or mudslide hazards;

22 (2) prescribe standards for constructing,  
23 altering, installing or repairing buildings and other  
24 improvements under a permit system within a designated flood or  
25 mudslide hazard area;

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

5 (4) review subdivision proposals and other new  
6 developments within a designated flood or mudslide hazard area  
7 to ensure that:

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

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

13 (c) adequate drainage is provided so as  
14 to reduce exposure to flood hazards;

15 (5) require new or replacement water supply  
16 systems or sanitary sewage systems within a designated flood or  
17 mudslide hazard area to be designed to minimize or eliminate  
18 infiltration of flood waters into the systems and discharges  
19 from the systems into flood waters and require on-site waste  
20 disposal systems to be located so as to avoid impairment of  
21 them or contamination from them during flooding; and

22 (6) designate and regulate floodways for the  
23 passage of flood waters.

24 B. A flood plain ordinance adopted pursuant to this  
25 section shall substantially conform to the minimum standards

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1 prescribed by the federal insurance administration, regulation  
2 1910 issued pursuant to Subsection 7(d), 79 Stat. 670, Section  
3 1361, 82 Stat. 587 and 82 Stat. 575, all as amended.

4 C. A county or municipality that enacts a flood  
5 plain ordinance shall designate a person, certified pursuant to  
6 the state-certified flood plain manager program, as the flood  
7 plain manager to administer the flood plain ordinance.

8 D. A county or municipality that has areas  
9 designated by the federal emergency management agency and the  
10 county or municipality as flood-prone shall participate in the  
11 national flood insurance program.

12 E. A county or municipality shall have exclusive  
13 jurisdiction over flood plain permits issued under its  
14 respective flood plain ordinance in accordance with this  
15 section and so long as all structures built in flood plains are  
16 subject to inspection and approval pursuant to the Construction  
17 Industries Licensing Act. Notwithstanding Section 3-18-6 NMSA  
18 1978, when a municipality adopts a flood plain ordinance  
19 pursuant to Paragraph (2) of Subsection A of this section, the  
20 municipality's jurisdiction under the flood plain ordinance may  
21 take precedence over a respective county flood plain ordinance  
22 within the municipality's boundary and within the  
23 municipality's subdividing and platting jurisdiction.

24 F. A county or municipality shall designate flood  
25 plain areas having special flood or mudslide hazards in

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1 substantial conformity with areas identified as flood- or  
2 mudslide-prone by the federal insurance administration pursuant  
3 to the national flood insurance program and may designate areas  
4 as flood- or mudslide-prone that may not be so identified by  
5 the federal insurance administration.

6 G. A municipality or county adopting a flood plain  
7 ordinance pursuant to this section may enter into reciprocal  
8 agreements with any agency of the state, other political  
9 subdivisions or the federal government in order to effectively  
10 carry out the provisions of this section.

11 H. The homeland security and emergency management  
12 division of the department of public safety is designated as  
13 the state coordinating agency for the national flood insurance  
14 program and may assist counties or municipalities when  
15 requested by a county or municipality to provide technical  
16 advice and assistance."

17 SECTION 2. Section 8-8-6 NMSA 1978 (being Laws 1998,  
18 Chapter 108, Section 6, as amended) is amended to read:

19 "8-8-6. COMMISSION--DIVISIONS.--The commission shall  
20 include the following organizational units:

- 21 A. the administrative services division;
- 22 B. the consumer relations division;
- 23 C. the insurance division;
- 24 D. the legal division;
- 25 E. the transportation division; and

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1 F. the utility division [~~and~~  
2 G. ~~the fire marshal division~~]."

3 SECTION 3. Section 9-15-48 NMSA 1978 (being Laws 2003,  
4 Chapter 166, Section 1 and Laws 2003, Chapter 170, Section 1,  
5 as amended) is amended to read:

6 "9-15-48. OFFICE OF MILITARY BASE PLANNING AND SUPPORT  
7 CREATED--DUTIES.--

8 A. The "office of military base planning and  
9 support" is created, which is administratively attached to the  
10 economic development department. The department shall provide  
11 administrative services to the office.

12 B. The [~~governor's homeland security adviser~~]  
13 director of the homeland security and emergency management  
14 division of the department of public safety shall appoint a  
15 director of the office of military base planning and support.

16 C. The director of the office of military base  
17 planning and support shall:

18 (1) employ, under the authorization of the  
19 [~~governor's homeland security adviser~~] director of the homeland  
20 security and emergency management division, the staff necessary  
21 to carry out the work of the office of military base planning  
22 and support and the military base planning commission;

23 (2) support the commission;

24 (3) inform the governor and the [~~governor's~~  
25 ~~homeland security adviser~~] director of the homeland security

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1 and emergency management division about issues impacting the  
2 military bases in the state, including infrastructure  
3 requirements, environmental needs, military force structure  
4 possibilities, tax implications, property considerations and  
5 issues requiring coordination and support from other state  
6 agencies;

7 (4) serve as a liaison with the community  
8 organizations whose purpose is to support the long-term  
9 viability of the military bases;

10 (5) communicate with the staff of the state's  
11 congressional delegation; and

12 (6) identify issues, prepare information and  
13 provide for presentations necessary for the commission to carry  
14 out its duties."

15 SECTION 4. Section 9-15-49 NMSA 1978 (being Laws 2003,  
16 Chapter 166, Section 2 and Laws 2003, Chapter 170, Section 2,  
17 as amended) is amended to read:

18 "9-15-49. MILITARY BASE PLANNING COMMISSION CREATED--  
19 COMPOSITION.--

20 A. The "military base planning commission" is  
21 created, which is administratively attached to the economic  
22 development department. The department shall provide  
23 administrative services to the commission.

24 B. The commission consists of seventeen members,  
25 fifteen of which are appointed by the governor with the advice

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1 and consent of the senate. The commission shall include the  
2 lieutenant governor, the [~~governor's homeland security adviser~~]  
3 director of the homeland security and emergency management  
4 division of the department of public safety and appropriate  
5 representatives from the counties, or adjoining counties, in  
6 which military bases are located.

7 C. The governor shall appoint a chair from among  
8 the members of the commission. The commission shall meet at  
9 the call of the chair and shall meet not less than quarterly.  
10 Members of the commission shall not be paid but shall receive  
11 per diem and mileage expenses as provided in the Per Diem and  
12 Mileage Act.

13 D. Notwithstanding the provisions of the Open  
14 Meetings Act, meetings of the commission shall be closed to the  
15 public when proprietary alternative New Mexico military base  
16 realignment or closure strategies or any information regarding  
17 relocation of military units is discussed.

18 E. Information developed or obtained by the  
19 commission that pertains to proprietary commission strategies  
20 or related to the relocation of military units shall be  
21 confidential and not subject to inspection pursuant to the  
22 Inspection of Public Records Act."

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

25 "9-19-3. PURPOSE.--The purpose of the Department of

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1 Public Safety Act is to establish a single, unified department  
2 to consolidate state law enforcement [~~and~~], safety and homeland  
3 security and emergency management functions in order to provide  
4 better management, real coordination and more efficient use of  
5 state resources and manpower in responding to New Mexico's  
6 public safety and homeland security and emergency management  
7 needs and problems and to improve the professionalism of the  
8 state's law enforcement and investigative functions and  
9 personnel and the state's homeland security and emergency  
10 management functions and personnel."

11 SECTION 6. Section 9-19-4 NMSA 1978 (being Laws 1987,  
12 Chapter 254, Section 4, as amended) is amended to read:

13 "9-19-4. DEPARTMENT ESTABLISHED.--There is created in the  
14 executive branch the "department of public safety". The  
15 department shall be a cabinet department and shall consist of,  
16 but not be limited to, [~~five~~] eight program divisions, an  
17 administrative division and an information technology division  
18 as follows:

- 19 A. the New Mexico state police division;
- 20 B. the special investigations division;
- 21 C. the training and recruiting division;
- 22 D. the technical support division;
- 23 E. the administrative services division;
- 24 F. the motor transportation division; [~~and~~]
- 25 G. the information technology division;

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1                   H. the homeland security and emergency management  
2 division;

3                   I. the fire marshal division; and

4                   J. the enhanced 911 division."

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

7                   "9-19-6. SECRETARY--DUTIES AND GENERAL POWERS.--

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

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

20                   (1) except as otherwise provided in the  
21 Department of Public Safety Act, exercise general supervisory  
22 and appointing authority over all department employees, subject  
23 to any applicable personnel laws and regulations; provided that  
24 the secretary shall not reduce positions for the seventy-sixth  
25 fiscal year budgeted in the General Appropriation Act of 1987

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1 except for cause, by attrition or by occurrence of a vacancy;

2 (2) except as otherwise provided in the  
3 Department of Public Safety Act, serve as the coordinating  
4 officer for all departments or agencies and all department and  
5 agency employees required to provide services after an  
6 emergency has been declared by the governor;

7 [~~(2)~~] (3) delegate authority to subordinates  
8 as [~~he~~] the secretary deems necessary and appropriate, clearly  
9 delineating such delegated authority and the limitations  
10 thereto;

11 [~~(3)~~] (4) organize the department into those  
12 organizational units [~~he~~] the secretary deems will enable it to  
13 function most efficiently, subject to any provisions of law  
14 requiring or establishing specific organizational units;

15 [~~(4)~~] (5) within the limitations of available  
16 appropriations and applicable laws, employ and fix the  
17 compensation of those persons necessary to discharge [~~his~~] the  
18 secretary's duties;

19 [~~(5)~~] (6) take administrative action by  
20 issuing orders and instructions, not inconsistent with the law,  
21 to assure implementation of and compliance with the provisions  
22 of law with the administration or execution of which [~~he~~] the  
23 secretary is responsible and to enforce those orders and  
24 instructions by appropriate administrative action [~~or actions~~]  
25 in the court;

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1                    [~~6~~] (7) conduct research and studies that  
2 will improve the operation of the department and examine other  
3 entities and functions of state government related to public  
4 safety for purposes of possible transfer to the department;

5                    [~~7~~] (8) provide courses of instruction and  
6 practical training for employees of the department and other  
7 persons involved in the administration of programs with the  
8 objective of improving the operations and efficiency of  
9 administration;

10                   [~~8~~] (9) prepare an annual budget of the  
11 department;

12                   [~~9~~] (10) provide cooperation, at the request  
13 of heads of administratively attached agencies, in order to:

14                            (a) minimize or eliminate duplication of  
15 services and jurisdictional conflicts;

16                            (b) coordinate activities and resolve  
17 problems of mutual concern; and

18                            (c) resolve by agreement the manner and  
19 extent to which the department shall provide budgeting,  
20 recordkeeping and related clerical assistance to  
21 administratively attached agencies, if any;

22                    [~~10~~] (11) appoint, with the governor's  
23 consent, for each division, a director. These appointed  
24 positions are exempt from the provisions of the Personnel Act.  
25 Persons appointed to these positions shall serve at the

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1 pleasure of the secretary;

2 [~~(11)~~] (12) appoint the director of the New  
3 Mexico law enforcement academy, subject to the approval of the  
4 New Mexico law enforcement academy board;

5 [~~(12)~~] (13) give bond in the penal sum of  
6 twenty-five thousand dollars (\$25,000) and require division  
7 directors to each give bond in the penal sum of ten thousand  
8 dollars (\$10,000), conditioned upon the faithful performance of  
9 duties as provided in the Surety Bond Act, with the department  
10 paying the cost of such bonds; and

11 [~~(13)~~] (14) require performance bonds of such  
12 employees and officers as [~~he~~] the secretary deems necessary as  
13 provided in the Surety Bond Act, with the department paying the  
14 costs of such bonds.

15 C. The secretary may apply for and receive, with  
16 the governor's approval, in the name of the department, any  
17 public or private funds, including but not limited to United  
18 States government funds, available to the department to carry  
19 out its programs, duties or services.

20 D. Where functions of departments overlap or a  
21 function assigned to one department could better be performed  
22 by another department, the secretary may recommend appropriate  
23 legislation to the next session of the legislature for its  
24 approval.

25 E. The secretary may make and adopt such reasonable

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1 and procedural rules and regulations as may be necessary to  
2 carry out the duties of the department and its divisions. No  
3 rule or regulation promulgated by the director of any division  
4 in carrying out the functions and duties of the division shall  
5 be effective until approved by the secretary unless otherwise  
6 provided by statute. Unless otherwise provided by statute, no  
7 regulation affecting any person or agency outside the  
8 department shall be adopted, amended or repealed without a  
9 public hearing on the proposed action before the secretary or a  
10 hearing officer designated by ~~[him]~~ the secretary. The public  
11 hearing shall be held in Santa Fe unless otherwise permitted by  
12 statute. Notice of the subject matter of the regulation, the  
13 action proposed to be taken, the time and place of the hearing,  
14 the manner in which interested persons may present their views  
15 and the method by which copies of the proposed regulation,  
16 proposed amendment or repeal of an existing regulation may be  
17 obtained shall be published once at least thirty days prior to  
18 the hearing date in a newspaper of general circulation in the  
19 state and mailed at least thirty days prior to the hearing date  
20 to all persons who have made a written request for advance  
21 notice of hearing.

22 F. All rules and regulations shall be filed in  
23 accordance with the State Rules Act."

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

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1           "9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND  
2 DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--

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

15           B. The New Mexico state police division shall  
16 consist of the commissioned officers and civilian personnel,  
17 including all communications equipment operators, of the New  
18 Mexico state police uniform division and the commissioned  
19 officers and civilian personnel of the New Mexico state police  
20 criminal division and such other personnel as may be assigned  
21 by the secretary or by the governor pursuant to an executive  
22 order as authorized in the Department of Public Safety Act.

23           C. The special investigations division shall  
24 consist of the former enforcement personnel of the department  
25 of alcoholic beverage control and such other personnel as may

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1 be assigned by the secretary or by the governor pursuant to an  
2 executive order as authorized in the Department of Public  
3 Safety Act. The division is responsible for the enforcement of  
4 the New Mexico Bingo and Raffle Act and the Liquor Control Act.

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

7 E. The training and recruiting division shall  
8 consist of the personnel of the New Mexico law enforcement  
9 academy, the New Mexico state police training division and all  
10 other training personnel and functions of the department as the  
11 secretary may transfer to this division.

12 F. The administrative services division shall  
13 consist of the administrative services [~~and services divisions~~]  
14 of the [~~New Mexico state police and those administrative~~  
15 ~~support personnel of the other existing departments, divisions~~  
16 ~~or offices as the secretary deems necessary~~] department.

17 G. The homeland security and emergency management  
18 division shall consist of functions formerly exercised by the  
19 homeland security and emergency management department,  
20 including:

21 (1) coordinating the homeland security and  
22 emergency management efforts of all state and local government  
23 agencies, as well as enlisting cooperation from private  
24 entities such as health care providers;

25 (2) applying for and accepting federal funds

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1 for homeland security, administering the funds and developing  
2 criteria to allocate grants to local governments, tribes, state  
3 agencies and other qualified entities;

4 (3) acting as a liaison between federal, state  
5 and local agencies to effect the improved sharing of  
6 counterterrorism intelligence;

7 (4) providing information to the general  
8 public and to private businesses that is essential to ensuring  
9 their safety and security and providing the governor with  
10 timely information relating to emergencies, disasters and acts  
11 of terrorism or terrorist threats;

12 (5) establishing security standards for state  
13 facilities and for protection of their occupants and developing  
14 plans for the continuity of state government operations in the  
15 event of a threat or act of terrorism or other man-made or  
16 natural disaster;

17 (6) identifying the state's critical  
18 infrastructures and assisting public and private entities with  
19 developing plans and procedures designed to implement the  
20 protective actions necessary to continue operations;

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

24 (8) coordinating law enforcement  
25 counterterrorism prevention, preparedness and response training

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1 on a statewide basis, including training for emergency  
2 responders, government officials, health care providers and  
3 others as appropriate;

4 (9) working with emergency response and  
5 emergency management programs and providing assistance in  
6 developing and conducting terrorism response exercises for  
7 emergency responders, government officials, health care  
8 providers and others;

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

12 (11) developing and maintaining a statewide  
13 plan and strategy to manage and allocate federal grant funds  
14 required to provide the state's emergency response community  
15 with the equipment necessary to respond to an act of terrorism  
16 involving a weapon of mass destruction; and

17 (12) performing such other duties relating to  
18 homeland security as may be assigned by the governor or the  
19 secretary.

20 H. The fire marshal division shall consist of  
21 functions formerly exercised by the fire marshal division of  
22 the public regulation commission and shall include:

23 (1) the firefighter training academy bureau;

24 (2) the fire service support bureau;

25 (3) the fire investigations bureau; and

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1                   (4) the fire code enforcement bureau.

2                   I. The enhanced 911 division shall administer the  
3 state's enhanced 911 service program pursuant to the Enhanced  
4 911 Act."

5                   SECTION 9. A new section of the Department of Public  
6 Safety Act is enacted to read:

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

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

20                   B. The governor may by appropriate order designate  
21 the homeland security and emergency management division or the  
22 department as the single state agency for the administration of  
23 any homeland security or emergency management program when that  
24 designation is a condition of federal financial or other  
25 participation in the program under applicable federal law, rule

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1 or order. Whether or not a federal condition exists, the  
2 governor may designate the division or the department as the  
3 single state agency for the administration of any homeland  
4 security or emergency management program. No designation of a  
5 single state agency under the authority granted in this section  
6 shall be made in contravention of state law."

7 SECTION 10. Section 10-11A-2 NMSA 1978 (being Laws 1983,  
8 Chapter 263, Section 2, as amended) is amended to read:

9 "10-11A-2. DEFINITIONS.--As used in the Volunteer  
10 Firefighters Retirement Act:

11 A. "association" means the public employees  
12 retirement association;

13 B. "board" means the retirement board of the  
14 association;

15 C. "fire department" means a fire department with  
16 volunteer members that is certified by the fire marshal  
17 division of the [~~public regulation commission~~] department of  
18 public safety;

19 D. "fund" means the volunteer firefighters  
20 retirement fund; and

21 E. "member" means a volunteer nonsalaried  
22 firefighter who is listed as an active member on the rolls of a  
23 fire department and whose first year of service credit was  
24 accumulated during or after the year the member attained the  
25 age of sixteen. A volunteer firefighter who receives

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1 reimbursement for personal out-of-pocket costs shall not be  
2 considered a salaried firefighter."

3 SECTION 11. Section 10-11A-6 NMSA 1978 (being Laws 1983,  
4 Chapter 263, Section 6, as amended) is amended to read:

5 "10-11A-6. DETERMINATION OF SERVICE CREDIT.--

6 A. A member may claim one year of service credit  
7 for each year in which a fire department certifies that the  
8 member:

9 (1) attended fifty percent of all scheduled  
10 fire drills for which the fire department held the member  
11 responsible to attend;

12 (2) attended fifty percent of all scheduled  
13 business meetings for which the fire department held the member  
14 responsible to attend; and

15 (3) participated in at least fifty percent of  
16 all emergency response calls for which the fire department held  
17 the member responsible to attend.

18 B. The chief of each fire department shall submit  
19 to the association by March 31 of each year documentation of  
20 the qualifications of each member for the preceding calendar  
21 year; provided that the chief shall:

22 (1) submit the documentation on forms provided  
23 by the association;

24 (2) acknowledge the truth of the records under  
25 oath before a notary public; and

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1 (3) have the notarized forms signed by the  
2 mayor, if distributions from the fire protection fund for the  
3 fire department are made to an incorporated municipality, or  
4 the chair of the county commission, if distributions from the  
5 fire protection fund for the fire department are made to a  
6 county fire district.

7 C. For service credit that has been earned, but not  
8 credited pursuant to Subsection B of this section, a member may  
9 post or adjust service credit earned for one or more calendar  
10 years beginning on or after January 1, 1979; provided that the  
11 member shall:

12 (1) file with the association a completed  
13 "Corrected Qualification Record" or "Adjusted Qualification  
14 Record" as prescribed by the board;

15 (2) acknowledge the truth of the records under  
16 oath before a notary public; and

17 (3) have the notarized forms signed by the  
18 mayor, if distributions from the fire protection fund for the  
19 fire department are made to an incorporated municipality, or  
20 the chair of the county commission, if distributions from the  
21 fire protection fund for the fire department are made to a  
22 county fire district.

23 D. The association may request the fire marshal  
24 division of the [~~public regulation commission~~] department of  
25 public safety to verify member qualifications submitted to the

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1 association."

2 SECTION 12. Section 12-10-4 NMSA 1978 (being Laws 1959,  
3 Chapter 190, Section 5, as amended) is amended to read:

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

6 A. The governor shall have general direction and  
7 control of the activities of the homeland security and  
8 emergency management division of the department of public  
9 safety and shall be responsible for carrying out the provisions  
10 of the All Hazard Emergency Management Act and, in the event of  
11 any man-made or natural disaster causing or threatening  
12 widespread physical or economic harm that is beyond local  
13 control and requiring the resources of the state, shall  
14 exercise direction and control over any and all state forces  
15 and resources engaged in emergency operations or related all  
16 hazard emergency management functions within the state.

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

19 (1) cooperate with the federal government and  
20 agree to carry out all hazard emergency management  
21 responsibilities delegated in accordance with existing federal  
22 laws and policies and cooperate with other states and with  
23 private agencies in all matters relating to the all hazard  
24 emergency management of the state and nation;

25 (2) issue, amend or rescind the necessary

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1 orders, rules and procedures to carry out the provisions of the  
2 All Hazard Emergency Management Act;

3 (3) provide those resources and services  
4 necessary to avoid or minimize economic or physical harm until  
5 a situation becomes stabilized and again under local self-  
6 support and control, including the provision, on a temporary,  
7 emergency basis, of lodging, sheltering, health care, food,  
8 transportation or shipping necessary to protect lives or public  
9 property or for any other action necessary to protect the  
10 public health, safety and welfare;

11 (4) prepare a comprehensive emergency operations  
12 plan and program and to integrate the state emergency  
13 operations plan and program with the emergency operations plans  
14 and programs of the federal government and other states and to  
15 coordinate the preparation of emergency operations plans and  
16 programs by the political subdivisions of this state;

17 (5) procure supplies and equipment, to institute  
18 training programs and public information programs and to take  
19 all necessary preparatory actions, including the partial or  
20 full mobilization of state and local government forces and  
21 resources in advance of actual disaster, to ensure the  
22 furnishing of adequately trained and equipped emergency forces  
23 of government and auxiliary personnel to cope with disasters  
24 resulting from enemy attack or other causes; and

25 (6) enter into mutual aid agreements with other

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1 states and to coordinate mutual aid agreements between  
2 political subdivisions of the state."

3 SECTION 13. Section 12-10-6 NMSA 1978 (being Laws 1959,  
4 Chapter 190, Section 7, as amended) is amended to read:

5 "12-10-6. MUTUAL AID AGREEMENTS.--Each political  
6 subdivision may, in cooperation with other public and private  
7 agencies within the state, enter into mutual aid agreements for  
8 reciprocal emergency management aid and assistance. The  
9 agreements shall be consistent with the state emergency  
10 operations plan, and in time of emergency it shall be the duty  
11 of each local emergency management organization to render  
12 assistance within its capabilities and in accordance with the  
13 provisions of the program and plan promulgated by the homeland  
14 security and emergency management division of the department of  
15 public safety."

16 SECTION 14. Section 12-10-9 NMSA 1978 (being Laws 1959,  
17 Chapter 190, Section 9, as amended) is amended to read:

18 "12-10-9. EXISTING SERVICES AND FACILITIES TO BE USED BY  
19 AGENCY.--The governor, the homeland security and emergency  
20 management division of the department of public safety and the  
21 governing bodies of the political subdivisions of the state are  
22 directed to use, in carrying out the provisions of the All  
23 Hazard Emergency Management Act, the services, equipment,  
24 supplies and facilities of existing departments, offices and  
25 agencies of the state and its political subdivisions to the

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1 maximum extent practicable, and the officers and personnel of  
2 all departments, offices and agencies of the state and its  
3 political subdivisions are directed to cooperate with and  
4 extend their services and facilities to the governor or to the  
5 [~~department~~] division or to the local coordinators of all  
6 hazard emergency management throughout the state upon request."

7 SECTION 15. Section 12-10-11 NMSA 1978 (being Laws 2002,  
8 Chapter 83, Section 2, as amended) is amended to read:

9 "12-10-11. OUT-OF-STATE LICENSE HOLDERS--POWERS--  
10 DUTIES.--During an emergency, a person who holds a license,  
11 certificate or other permit that is issued by a state or  
12 territory of the United States and that evidences the meeting  
13 of qualifications for professional, mechanical or other skills  
14 may be credentialed, if appropriate and approved by the  
15 department of health or the homeland security and emergency  
16 management division of the department of public safety, to  
17 render aid involving those skills to meet an emergency, subject  
18 to limitations and conditions as the governor may prescribe by  
19 executive order or otherwise. A person shall be considered a  
20 public employee for the purposes of the Tort Claims Act when  
21 approved to perform those duties."

22 SECTION 16. Section 12-10-13 NMSA 1978 (being Laws 2002,  
23 Chapter 83, Section 4, as amended) is amended to read:

24 "12-10-13. IN-STATE LICENSE HOLDERS--POWERS--DUTIES.--  
25 During an emergency, a person who holds a license, certificate

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1 or other permit that is issued by the state and that evidences  
2 the meeting of qualifications for professional, mechanical or  
3 other skills may be credentialed, if appropriate and approved  
4 by the department of health or the homeland security and  
5 emergency management division of the department of public  
6 safety, to render aid involving those skills to meet a declared  
7 emergency, and shall be considered a public employee for the  
8 purposes of the Tort Claims Act when approved to perform those  
9 duties."

10 SECTION 17. Section 12-10A-3 NMSA 1978 (being Laws 2003,  
11 Chapter 218, Section 3, as amended) is amended to read:

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

14 A. "attorney general" means the New Mexico attorney  
15 general;

16 B. "court" means the district court for the judicial  
17 district where a public health emergency is occurring, the  
18 district court for Santa Fe county or, in the event that a  
19 district court cannot adequately provide services, a district  
20 court designated by the New Mexico supreme court;

21 C. "director" or "state director" means the [~~state~~]  
22 director of the homeland security and emergency management  
23 division of the department of public safety or the [~~state~~]  
24 director's designee;

25 D. "health care supplies" means medication, durable

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1 medical equipment, instruments, linens or any other material  
2 that the state may need to use in a public health emergency,  
3 including supplies for preparedness, mitigation and recovery;

4 E. "health facility" means:

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

7 (2) a nonfederal facility or building, whether  
8 public or private, for-profit or nonprofit, that is used,  
9 operated or designed to provide health services, medical  
10 treatment, nursing services, rehabilitative services or  
11 preventive care;

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

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

16 (a) laboratories;

17 (b) research facilities;

18 (c) pharmacies;

19 (d) laundry facilities;

20 (e) health personnel training and lodging  
21 facilities;

22 (f) patient, guest and health personnel food  
23 service facilities; and

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

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1 F. "isolation" means the physical separation for  
2 possible medical care of persons who are infected or who are  
3 reasonably believed to be infected with a threatening  
4 communicable disease or potential threatening communicable  
5 disease from non-isolated persons to protect against the  
6 transmission of the threatening communicable disease to  
7 non-isolated persons;

8 G. "public health emergency" means the occurrence or  
9 imminent threat of exposure to an extremely dangerous condition  
10 or a highly infectious or toxic agent, including a threatening  
11 communicable disease, that poses an imminent threat of  
12 substantial harm to the population of New Mexico or any portion  
13 thereof;

14 H. "public health official" means the secretary of  
15 health or the secretary's designee, including a qualified  
16 public individual or group or a qualified private individual or  
17 group, as determined by the secretary of health;

18 I. "quarantine" means the precautionary physical  
19 separation of persons who have or may have been exposed to a  
20 threatening communicable disease or a potentially threatening  
21 communicable disease and who do not show signs or symptoms of a  
22 threatening communicable disease, from non-quarantined persons,  
23 to protect against the transmission of the disease to non-  
24 quarantined persons;

25 J. "secretary of health" means the secretary of

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1 health or the secretary's designee;

2 K. "secretary of public safety" means the secretary  
3 of public safety or the secretary's designee; and

4 L. "threatening communicable disease" means a disease  
5 that causes death or great bodily harm that passes from one  
6 person to another and for which there are no means by which the  
7 public can reasonably avoid the risk of contracting the  
8 disease. "Threatening communicable disease" does not include  
9 acquired immune deficiency syndrome or other infections caused  
10 by the human immunodeficiency virus."

11 SECTION 18. Section 12-10B-1 NMSA 1978 (being Laws 2006,  
12 Chapter 97, Section 1) is amended to read:

13 "12-10B-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article  
14 10B NMSA 1978 may be cited as the "Intrastate Mutual Aid Act"."

15 SECTION 19. Section 12-10B-2 NMSA 1978 (being Laws 2006,  
16 Chapter 97, Section 2) is amended to read:

17 "12-10B-2. DEFINITIONS.--As used in the Intrastate Mutual  
18 Aid Act:

19 [~~A. "committee" means the intrastate mutual aid~~  
20 ~~committee;~~

21 ~~B.]~~ A. "disaster" means the occurrence or imminent  
22 threat of widespread or severe damage, injury or loss of life  
23 or property resulting from a natural or artificial cause,  
24 including tornadoes, windstorms, snowstorms, wind-driven water,  
25 high water, floods, earthquakes, landslides, mudslides,

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1 volcanic action, fires, explosions, air or water contamination,  
2 blight, droughts, infestations, riots, sabotage, hostile  
3 military or paramilitary action, disruption of state services,  
4 accidents involving radioactive or hazardous materials,  
5 bioterrorism or incidents involving weapons of mass  
6 destruction;

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

10 C. "emergency" means the imminent threat of a  
11 disaster causing immediate peril to life or property that  
12 timely action can avert or minimize;

13 D. "member jurisdiction" means the state, through the  
14 office of the governor or the governor's designee, a political  
15 subdivision or an Indian nation, tribe or pueblo that  
16 participates in the system;

17 E. "political subdivision" means a county or a  
18 municipality; and

19 F. "system" means the intrastate mutual aid system."

20 SECTION 20. Section 12-10B-3 NMSA 1978 (being Laws 2006,  
21 Chapter 97, Section 3) is amended to read:

22 "12-10B-3. [~~COMMITTEE CREATED--MEMBERSHIP--MEETINGS~~]  
23 DIVISION DUTIES [~~EXPENSES~~].--

24 [~~A. The "intrastate mutual aid committee" is created.~~  
25 ~~The committee shall consist of eleven members appointed by the~~

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1 ~~governor, including a representative of the department of~~  
2 ~~public safety and the governor's homeland security advisor who~~  
3 ~~shall be a permanent member and the presiding officer of the~~  
4 ~~committee. The members shall represent emergency management~~  
5 ~~and response disciplines, political subdivisions and, if~~  
6 ~~participating, Indian nations, tribes or pueblos. Appointments~~  
7 ~~shall be made for terms expiring four years from the date of~~  
8 ~~appointment. The committee shall elect from among its members~~  
9 ~~a vice-presiding officer and any other officers the committee~~  
10 ~~deems appropriate. The committee shall meet at least annually~~  
11 ~~and may meet at the call of the presiding officer or as~~  
12 ~~otherwise called by seven of its members. The committee shall~~  
13 ~~be attached to the department of public safety for~~  
14 ~~administrative purposes only.~~

15 B.] The [committee] division shall:

16 [(1)] A. review the progress and status of intrastate  
17 mutual aid;

18 [(2)] B. assist in developing methods to track and  
19 evaluate activation of the system;

20 [(3)] C. examine issues facing member jurisdictions  
21 in the implementation of intrastate mutual aid;

22 [(4)] D. develop, adopt and disseminate comprehensive  
23 guidelines and procedures that address the following:

24 [(a)] (1) projected or anticipated costs of  
25 establishing and maintaining the system;

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1                   [~~(b)~~] (2) checklists for requesting and  
2 providing intrastate mutual aid;

3                   [~~(c)~~] (3) recordkeeping for member  
4 jurisdictions; and

5                   [~~(d)~~] (4) procedures for reimbursing the actual  
6 and legitimate expenses of a member jurisdiction that responds  
7 to a request for aid through the system; and

8                   [~~(5)~~] E. adopt other guidelines or procedures  
9 considered necessary by the [~~committee~~] division to implement  
10 an effective and efficient system.

11                   [~~G. Members of the committee shall not be paid for~~  
12 ~~participating in committee meetings and activities; however:~~

13                   ~~(1) members representing the state, its agencies~~  
14 ~~or political subdivisions shall receive per diem and mileage~~  
15 ~~expenses as provided in the Per Diem and Mileage Act paid by~~  
16 ~~their sponsors;~~

17                   ~~(2) members representing the private sector~~  
18 ~~shall receive per diem and mileage expenses as provided in the~~  
19 ~~Per Diem and Mileage Act paid by the department of public~~  
20 ~~safety; and~~

21                   ~~(3) members representing Indian nations, tribes~~  
22 ~~or pueblos may be compensated or reimbursed as provided by the~~  
23 ~~tribal government they represent.]"~~

24                   SECTION 21. Section 12-10B-4 NMSA 1978 (being Laws 2006,  
25 Chapter 97, Section 4) is amended to read:

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1 "12-10B-4. INTRASTATE MUTUAL AID SYSTEM--INITIAL  
2 PARTICIPATION--WITHDRAWAL.--

3 A. The "intrastate mutual aid system" is created.  
4 The system, pursuant to the Intrastate Mutual Aid Act, is  
5 composed of and may be described as:

6 (1) member jurisdictions and action taken by a  
7 member jurisdiction;

8 (2) the [~~committee~~] division and action taken by  
9 the [~~committee~~] division;

10 (3) guidelines and procedures;

11 (4) action taken with respect to requesting aid  
12 for an emergency or disaster; and

13 (5) action taken with respect to responding to a  
14 request for aid for an emergency or disaster.

15 B. The state and, except as provided in Subsection D  
16 of this section, every political subdivision of the state is  
17 part of the system.

18 C. An Indian nation, tribe or pueblo located within  
19 the boundaries of the state may become a member jurisdiction  
20 upon:

21 (1) adoption by the tribal government of a  
22 resolution declaring the tribe's desire to be a member  
23 jurisdiction and to comply with the provisions of the  
24 Intrastate Mutual Aid Act and the guidelines and procedures  
25 adopted by the [~~committee~~] division; and

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1 (2) receipt by the [~~emergency planning and~~  
2 ~~coordination bureau of the department of public safety~~]  
3 division of a copy of the resolution.

4 D. A member jurisdiction other than the state may  
5 elect not to participate in or to withdraw from the system  
6 upon:

7 (1) adopting a resolution or ordinance declaring  
8 that the member jurisdiction elects not to participate in or to  
9 withdraw from the system; and

10 (2) receipt by the [~~emergency planning and~~  
11 ~~coordination bureau of the department of public safety~~]  
12 division of a copy of the resolution or ordinance.

13 E. This section does not preclude a member  
14 jurisdiction from entering into any other agreement with  
15 another political subdivision or Indian nation, tribe or  
16 pueblo, to the extent provided by law, and does not affect any  
17 other agreement to which a political subdivision is a party or  
18 may become a party."

19 SECTION 22. Section 12-10B-8 NMSA 1978 (being Laws 2006,  
20 Chapter 97, Section 8) is amended to read:

21 "12-10B-8. REIMBURSEMENT--DISPUTE RESOLUTION.--

22 A. A requesting member jurisdiction shall reimburse,  
23 to the extent permitted by law, each member jurisdiction that  
24 responds to a request for aid and renders aid under the system,  
25 unless the responding member jurisdiction donates all or a

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1 portion of the cost of the aid to the requesting member  
2 jurisdiction.

3 B. A request for reimbursement shall be in accordance  
4 with procedures developed by the [~~committee~~] division.

5 C. If a dispute regarding reimbursement arises  
6 between a member jurisdiction that requested aid under the  
7 system and a member jurisdiction that provided aid under the  
8 system, they shall make every effort to resolve the dispute  
9 within thirty days of written notice of the dispute given by  
10 the member jurisdiction raising the dispute to the other member  
11 jurisdiction. If the dispute is not resolved within ninety  
12 days from the date of the written notice, either member  
13 jurisdiction may:

14 (1) request the department of finance and  
15 administration to resolve the dispute; or

16 (2) if one of the disputing member jurisdictions  
17 is an Indian nation, tribe or pueblo, request arbitration  
18 pursuant to the commercial arbitration rules and mediation  
19 procedures of the American arbitration association."

20 SECTION 23. A new section of the Intrastate Mutual Aid  
21 Act is enacted to read:

22 "[NEW MATERIAL] DUTIES OF INTRASTATE MUTUAL AID COMMITTEE  
23 TO DIVISION.--Beginning July 1, 2011, the division shall assume  
24 the duties of the intrastate mutual aid committee. All rules  
25 of the intrastate mutual aid committee shall remain in force

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1 unless the division repeals or amends them."

2 SECTION 24. Section 12-10D-1 NMSA 1978 (being Laws 2009,  
3 Chapter 111, Section 1) is amended to read:

4 "12-10D-1. SHORT TITLE.--~~[This act]~~ Chapter 12, Article  
5 12D NMSA 1978 may be cited as the "Emergency Communications  
6 Interoperability Act".

7 SECTION 25. Section 12-10D-2 NMSA 1978 (being Laws 2009,  
8 Chapter 111, Section 2) is amended to read:

9 "12-10D-2. DEFINITIONS.--As used in the Emergency  
10 Communications Interoperability Act:

11 A. "department" or "division" means the homeland  
12 security and emergency management division of the department of  
13 public safety;

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

17 (1) a law enforcement officer;

18 (2) a firefighter or certified volunteer  
19 firefighter; and

20 (3) an emergency medical services provider;

21 C. "infrastructure equipment" means the underlying  
22 fixed equipment required to establish interoperable  
23 communications between radio systems used by local, state,  
24 tribal and federal agencies and first responders; and

25 D. "interoperability" means coordination of critical

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1 information communication systems or networks, including radio  
2 and emergency coordination information equipment, that are  
3 consistently operable with all relevant local, state, tribal  
4 and federal agencies and first responders."

5 SECTION 26. Section 12-10D-3 NMSA 1978 (being Laws 2009,  
6 Chapter 111, Section 3) is amended to read:

7 "12-10D-3. INTEROPERABILITY PLANNING COMMISSION--  
8 CREATED.--

9 A. The "interoperability planning commission" is  
10 created and administratively attached to the department.

11 B. The interoperability planning commission is a  
12 permanent advisory commission created to advise and support the  
13 department on emergency response and homeland security  
14 activities relating to interoperability, the obtaining of  
15 funding and the use of available funding.

16 C. The commission consists of twelve members,  
17 including:

18 (1) the lieutenant governor;

19 (2) the ~~[homeland security advisor]~~ director of  
20 the division;

21 (3) the secretary of information technology or  
22 the secretary's designee;

23 (4) the adjutant general or a representative  
24 from the department of military affairs;

25 (5) the secretary of energy, minerals and

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1 natural resources or the secretary's designee;

2 (6) the state fire marshal or the fire marshal's  
3 designee;

4 (7) the secretary of Indian affairs or the  
5 secretary's designee;

6 (8) the secretary of transportation or the  
7 secretary's designee;

8 (9) the secretary of health or the secretary's  
9 designee;

10 (10) the secretary of public safety or the  
11 secretary's designee;

12 (11) the executive director of the New Mexico  
13 municipal league or the executive director's designee; and

14 (12) the executive director of the New Mexico  
15 association of counties or the executive director's designee.

16 D. The commission shall appoint a chair and vice  
17 chair from among its members. The commission shall meet at the  
18 call of the chair but no less than two times each year.

19 E. Members of the commission, or their designees, who  
20 are not supported by public money may be reimbursed for per  
21 diem and mileage pursuant to the Per Diem and Mileage Act, but  
22 shall not receive any other compensation, perquisite or  
23 allowance."

24 **SECTION 27.** A new section of the Emergency Communications  
25 Interoperability Act is enacted to read:

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1           "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
2 REPEAL.--The interoperability planning commission is terminated  
3 on July 1, 2015 pursuant to the provisions of the Sunset Act.  
4 The commission shall continue to operate according to the  
5 provisions of Sections 12-10D-3 and 12-10D-4 NMSA 1978 until  
6 July 1, 2016. Effective July 1, 2016, Sections 12-10D-3 and  
7 12-10D-4 NMSA 1978 are repealed."

8           **SECTION 28.** Section 12-12-19 NMSA 1978 (being Laws 1983,  
9 Chapter 80, Section 3, as amended) is amended to read:

10           "12-12-19. DEFINITIONS.--As used in the Hazardous  
11 Materials Emergency Response Act:

12           A. "accident" means an event involving hazardous  
13 materials that may cause injury to persons or damage to  
14 property or release hazardous materials to the environment;

15           B. "administrator" means the hazardous materials  
16 emergency response administrator;

17           C. "board" means the hazardous materials safety  
18 board;

19           D. "chief" means the chief of the New Mexico state  
20 police;

21           E. "commission" means the state emergency response  
22 commission;

23           F. "department" or "division" means the homeland  
24 security and emergency management division of the department of  
25 public safety;

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1            G. "director" means the director of the division;

2            [~~G.~~] H. "emergency management" means the ability to  
3 prepare for, respond to, mitigate, recover and restore the  
4 scene of an institutional, industrial, transportation or other  
5 accident;

6            [~~H.~~] I. "first responder" means the first law  
7 enforcement officer or other public service provider with a  
8 radio-equipped vehicle to arrive at the scene of an accident;

9            [~~I.~~] J. "hazardous materials" means hazardous  
10 substances, radioactive materials or a combination of hazardous  
11 substances and radioactive materials;

12            [~~J.~~] K. "hazardous substances" means flammable  
13 solids, semisolids, liquids or gases; poisons; corrosives;  
14 explosives; compressed gases; reactive or toxic chemicals;  
15 irritants; or biological agents, but does not include  
16 radioactive materials;

17            [~~K.~~] L. "orphan hazardous materials" means hazardous  
18 substances, radioactive materials, a combination of hazardous  
19 substances and radioactive materials or substances used in the  
20 manufacture of controlled substances in violation of the  
21 Controlled Substances Act where an owner of the substances or  
22 materials cannot be identified;

23            [~~L.~~] M. "plan" means the statewide hazardous  
24 materials emergency response plan;

25            [~~M.~~] N. "radioactive materials" means any material or

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1 combination of materials that spontaneously emits ionizing  
2 radiation. Materials in which the estimated specific activity  
3 is not greater than 0.002 microcuries per gram of material are  
4 not considered to be radioactive materials unless determined to  
5 be so by the [~~hazardous and radioactive materials bureau of the~~  
6 ~~water and waste management division of the~~] department of  
7 environment for purposes of emergency response pursuant to the  
8 Hazardous Materials Emergency Response Act;

9 [N-] O. "responsible state agency" means an agency  
10 designated in Subsection D of Section 12-12-21 NMSA 1978 with  
11 responsibility for managing a certain type of accident or  
12 performing certain functions at the scene of such accident; and

13 [O-] P. "secretary" or "state director" means the  
14 [~~state~~] director of [~~homeland security and emergency~~  
15 ~~management~~] the division."

16 **SECTION 29.** Section 12-12-21 NMSA 1978 (being Laws 1983,  
17 Chapter 80, Section 5, as amended by Laws 2007, Chapter 290,  
18 Section 11 and by Laws 2007, Chapter 291, Section 29) is  
19 amended to read:

20 "12-12-21. STATE POLICE EMERGENCY RESPONSE OFFICER--  
21 PROCEDURE FOR NOTIFICATION--COOPERATION OF OTHER STATE AGENCIES  
22 AND LOCAL GOVERNMENTS.--

23 A. The [~~state~~] director, in addition to having final  
24 authority to administer the provisions of the Hazardous  
25 Materials Emergency Response Act, shall be responsible for

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1 central coordination and communication in the event of an  
2 accident.

3 B. The chief shall designate one or more persons to  
4 be known as "state police emergency response officers". A  
5 state police emergency response officer shall be trained in  
6 accident evaluation and emergency response and shall be  
7 available to answer an emergency response call from the first  
8 responder.

9 C. In the event of an accident, if the first  
10 responder is a law enforcement officer, the officer shall  
11 immediately notify the state police district emergency response  
12 officer in the officer's area, who shall in turn immediately  
13 notify the state police emergency response center. If the  
14 first responder is a person with radio capability tied into the  
15 radio communications protocol or reporting structure with the  
16 department of information technology, the person shall  
17 immediately notify Santa Fe control, ~~[who]~~ which shall in turn  
18 immediately notify the state police emergency response center.  
19 The state police emergency response center shall:

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

22 (2) instruct the first responder on how to  
23 proceed at the accident scene;

24 (3) immediately notify the ~~[state]~~ director and  
25 the appropriate responsible state agency and advise it of the

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1 necessary response;

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

4 (5) coordinate field communications and summon  
5 additional resources requested by the emergency management  
6 team.

7 D. The responsible state agencies shall be:

8 (1) the New Mexico state police division of the  
9 department of public safety for coordination, law enforcement  
10 and traffic and crowd control;

11 (2) the department of environment for assistance  
12 with accidents involving hazardous materials or hazardous  
13 substances;

14 (3) the [state] fire [~~marshal's office~~] marshal  
15 division of the department of public safety for assistance with  
16 any accident involving hazardous materials;

17 (4) the office of injury prevention [~~and~~  
18 ~~emergency medical services bureau~~] of the public health  
19 division of the department of health for assistance with  
20 accidents involving casualties;

21 (5) the homeland security and emergency  
22 management division of the department of public safety and the  
23 department of military affairs for assistance with accidents  
24 that require the evacuation of the vicinity of the accident or  
25 the use of the national guard of New Mexico; and

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1                   (6) the department of transportation for  
2 assistance with road closures, designating alternate routes and  
3 related services.

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

6                   F. Any driver of a vehicle carrying hazardous  
7 materials involved in an accident that may cause injury to  
8 persons or property or any owner, shipper or carrier of  
9 hazardous materials involved in an accident who has knowledge  
10 of such accident or any owner or person in charge of any  
11 building, premises or facility where such an accident occurs  
12 shall immediately notify the New Mexico state police division  
13 of the department of public safety by the quickest means of  
14 communication available."

15                   SECTION 30. Section 12-12-23 NMSA 1978 (being Laws 1984,  
16 Chapter 41, Section 6, as amended) is amended to read:

17                   "12-12-23. HAZARDOUS MATERIALS EMERGENCY RESPONSE  
18 ADMINISTRATOR--CREATED--DUTIES.--The position of "hazardous  
19 materials emergency response administrator" is created within  
20 the [~~homeland security and emergency management department~~]  
21 division. The [~~state~~] director shall assign the  
22 administrator's duties."

23                   SECTION 31. Section 12-12A-1 NMSA 1978 (being Laws 2008,  
24 Chapter 47, Section 1) is amended to read:

25                   "12-12A-1. SHORT TITLE.--[~~This act~~] Chapter 12, Article  
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1     12A NMSA 1978 may be cited as the "Uniform Emergency Volunteer  
2     Health Practitioners Act".

3             SECTION 32. Section 12-12A-2 NMSA 1978 (being Laws 2008,  
4     Chapter 47, Section 2) is amended to read:

5             "12-12A-2. DEFINITIONS.--As used in the Uniform Emergency  
6     Volunteer Health Practitioners Act:

7             A. "disaster relief organization" means an entity  
8     that provides emergency or disaster relief services that  
9     include health or veterinary services provided by volunteer  
10    health practitioners and that:

11            (1) is designated or recognized as a provider of  
12    those services pursuant to a disaster response and recovery  
13    plan adopted by an agency of the federal government or the  
14    ~~[homeland security and emergency management department]~~  
15    division; or

16            (2) regularly plans and conducts its activities  
17    in coordination with an agency of the federal government or the  
18    ~~[homeland security and emergency management department]~~  
19    division;

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

23            ~~[B-]~~ C. "emergency" means an event or condition that  
24    is an emergency, disaster, public health emergency or similar  
25    event or condition pursuant to the laws of this state;

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1           ~~[G.]~~ D. "emergency declaration" means a declaration  
2 of emergency issued by a person authorized to do so pursuant to  
3 the laws of this state;

4           ~~[D.]~~ E. "Emergency Management Assistance Compact"  
5 means the interstate compact approved by congress by Public Law  
6 No. 104-321, 110 Stat. 3877 and codified at Sections 12-10-14  
7 and 12-10-15 NMSA 1978;

8           ~~[E.]~~ F. "entity" means a person other than an  
9 individual;

10          ~~[F.]~~ G. "health facility" means an entity licensed  
11 pursuant to the laws of this or another state to provide health  
12 or veterinary services;

13          ~~[G.]~~ H. "health practitioner" means an individual  
14 licensed pursuant to the laws of this or another state to  
15 provide health or veterinary services;

16          ~~[H.]~~ I. "health services" means the provision of  
17 treatment, care, advice or guidance, or other services or  
18 supplies, related to the health or death of individuals or  
19 human populations, to the extent necessary to respond to an  
20 emergency, including:

21                   (1) the following, concerning the physical or  
22 mental condition or functional status of an individual or  
23 affecting the structure or function of the body:

24                           (a) preventive, diagnostic, therapeutic,  
25 rehabilitative, maintenance or palliative care; and

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1 (b) counseling, assessment, procedures or  
2 other services;

3 (2) the sale or dispensing of a drug, a device,  
4 equipment or another item to an individual in accordance with a  
5 prescription; and

6 (3) funeral, cremation, cemetery or other  
7 mortuary services;

8 [~~H.~~] J. "host entity" means an entity operating in  
9 this state that uses volunteer health practitioners to respond  
10 to an emergency;

11 [~~J.~~] K. "license" means authorization by a state to  
12 engage in health or veterinary services that are unlawful  
13 without the authorization. "License" includes authorization  
14 pursuant to the laws of this state to an individual to provide  
15 health or veterinary services based upon a national  
16 certification issued by a public or private entity;

17 [~~K.~~] L. "person" means an individual, corporation,  
18 business trust, trust, partnership, limited liability company,  
19 association, joint venture, public corporation, government or  
20 governmental subdivision, agency or instrumentality or any  
21 other legal or commercial entity;

22 [~~L.~~] M. "scope of practice" means the extent of the  
23 authorization to provide health or veterinary services granted  
24 to a health practitioner by a license issued to the  
25 practitioner in the state in which the principal part of the

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1 practitioner's services are rendered, including any conditions  
2 imposed by the licensing authority;

3 ~~[M.]~~ N. "state" means a state of the United States,  
4 the District of Columbia, Puerto Rico, the United States Virgin  
5 Islands or any territory or insular possession subject to the  
6 jurisdiction of the United States;

7 ~~[N.]~~ O. "veterinary services" means the provision of  
8 treatment, care, advice or guidance, or other services or  
9 supplies, related to the health or death of an animal or to  
10 animal populations, to the extent necessary to respond to an  
11 emergency, including:

12 (1) the diagnosis, treatment or prevention of an  
13 animal disease, injury or other physical or mental condition by  
14 the prescription, administration or dispensing of a vaccine,  
15 medicine, surgery or therapy;

16 (2) the use of a procedure for reproductive  
17 management; and

18 (3) the monitoring and treatment of animal  
19 populations for diseases that have spread or demonstrate the  
20 potential to spread to humans; and

21 ~~[O.]~~ P. "volunteer health practitioner" means a  
22 health practitioner who provides health or veterinary services,  
23 whether or not the practitioner receives compensation for those  
24 services. "Volunteer health practitioner" does not include a  
25 practitioner who receives compensation pursuant to a

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1 preexisting employment relationship with a host entity or  
2 affiliate that requires the practitioner to provide health  
3 services in this state, unless the practitioner is not a  
4 resident of this state and is employed by a disaster relief  
5 organization providing services in this state while an  
6 emergency declaration is in effect."

7 SECTION 33. Section 12-12A-4 NMSA 1978 (being Laws 2008,  
8 Chapter 47, Section 4) is amended to read:

9 "12-12A-4. REGULATION OF SERVICES DURING EMERGENCY.--

10 A. While an emergency declaration is in effect, the  
11 [~~homeland security and emergency management department~~]  
12 division may limit, restrict or otherwise regulate:

13 (1) the duration of practice by volunteer health  
14 practitioners;

15 (2) the geographical areas in which volunteer  
16 health practitioners may practice;

17 (3) the types of volunteer health practitioners  
18 who may practice; and

19 (4) any other matters necessary to coordinate  
20 effectively the provision of health or veterinary services  
21 during the emergency.

22 B. An order issued pursuant to Subsection A of this  
23 section may take effect immediately, without prior notice or  
24 comment.

25 C. A host entity that uses volunteer health

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1 practitioners to provide health or veterinary services in this  
2 state shall:

3 (1) consult and coordinate its activities with  
4 the [~~homeland security and emergency management department~~]  
5 division to the extent practicable to provide for the efficient  
6 and effective use of volunteer health practitioners; and

7 (2) comply with any laws other than the Uniform  
8 Emergency Volunteer Health Practitioners Act relating to the  
9 management of emergency health or veterinary services,  
10 including the Emergency Medical Services Act and the All Hazard  
11 Emergency Management Act."

12 SECTION 34. Section 12-12A-5 NMSA 1978 (being Laws 2008,  
13 Chapter 47, Section 5) is amended to read:

14 "12-12A-5. VOLUNTEER HEALTH PRACTITIONER REGISTRATION  
15 SYSTEMS.--

16 A. To qualify as a volunteer health practitioner  
17 registration system, a system shall:

18 (1) accept applications for the registration of  
19 volunteer health practitioners before or during an emergency;

20 (2) include information about the licensure and  
21 good standing of health practitioners that is accessible by  
22 authorized persons;

23 (3) be capable of confirming the accuracy of  
24 information concerning whether a health practitioner is  
25 licensed and in good standing before health services or

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1 veterinary services are provided pursuant to the Uniform  
2 Emergency Volunteer Health Practitioners Act; and

3 (4) meet one of the following conditions:

4 (a) be an emergency system for advance  
5 registration of volunteer health care practitioners established  
6 by a state and funded through the health resources services  
7 administration pursuant to Section 319I of the federal Public  
8 Health Service Act, 42 U.S.C. Section 247d-7b, as amended;

9 (b) be a local unit consisting of trained  
10 and equipped emergency response, public health and medical  
11 personnel formed pursuant to Section 2801 of the Public Health  
12 Service Act, 42 U.S.C. Section 300hh, as amended;

13 (c) be operated by a: 1) disaster relief  
14 organization; 2) licensing board; 3) national or regional  
15 association of licensing boards or health practitioners; 4)  
16 health facility that provides comprehensive inpatient and  
17 outpatient health care services, including a tertiary care and  
18 teaching hospital; or 5) governmental entity; or

19 (d) be designated by the [~~homeland security~~  
20 ~~and emergency management department~~] division as a registration  
21 system for purposes of the Uniform Emergency Volunteer Health  
22 Practitioners Act.

23 B. While an emergency declaration is in effect, the  
24 [~~homeland security and emergency management department~~]  
25 division, a person authorized to act on behalf of the [~~homeland~~

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1 ~~security and emergency management department]~~ division or a  
2 host entity may confirm whether volunteer health practitioners  
3 used in this state are registered with a registration system  
4 that complies with Subsection A of this section. Confirmation  
5 is limited to obtaining identities of the volunteer health  
6 practitioners from the system and determining whether the  
7 system indicates that the volunteer health practitioners are  
8 licensed and in good standing.

9 C. Upon request of a person in this state authorized  
10 pursuant to Subsection B of this section or a similarly  
11 authorized person in another state, a registration system  
12 located in this state shall notify the person of the identities  
13 of volunteer health practitioners and whether the volunteer  
14 health practitioners are licensed and in good standing.

15 D. A host entity is not required to use the services  
16 of a volunteer health practitioner even if the volunteer health  
17 practitioner is registered with a registration system that  
18 indicates that the volunteer health practitioner is licensed  
19 and in good standing."

20 SECTION 35. Section 12-12A-8 NMSA 1978 (being Laws 2008,  
21 Chapter 47, Section 8) is amended to read:

22 "12-12A-8. PROVISION OF VOLUNTEER HEALTH OR VETERINARY  
23 SERVICES--ADMINISTRATIVE SANCTIONS.--

24 A. Subject to Subsections B and C of this section, a  
25 volunteer health practitioner shall adhere to the scope of

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1 practice for a similarly licensed practitioner established by  
2 the licensing provisions, practice acts or other laws of this  
3 state.

4 B. Except as otherwise provided in Subsection C of  
5 this section, the Uniform Emergency Volunteer Health  
6 Practitioners Act does not authorize a volunteer health  
7 practitioner to provide services that are outside the volunteer  
8 health practitioner's scope of practice, even if a similarly  
9 licensed practitioner in this state would be permitted to  
10 provide the services.

11 C. The [~~homeland security and emergency management~~  
12 ~~department~~] division may modify or restrict the health or  
13 veterinary services that volunteer health practitioners may  
14 provide pursuant to the Uniform Emergency Volunteer Health  
15 Practitioners Act. An order pursuant to this subsection may  
16 take effect immediately, without prior notice or comment.

17 D. A host entity may restrict the health or  
18 veterinary services that a volunteer health practitioner may  
19 provide pursuant to the Uniform Emergency Volunteer Health  
20 Practitioners Act.

21 E. A volunteer health practitioner [~~does not engage~~]  
22 shall not be considered to be engaged in unauthorized practice  
23 unless the volunteer health practitioner has reason to know of  
24 any limitation, modification or restriction pursuant to the  
25 provisions of this section or that a similarly licensed

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1 practitioner in this state would not be permitted to provide  
2 the services. A volunteer health practitioner has reason to  
3 know of a limitation, modification or restriction or that a  
4 similarly licensed practitioner in this state would not be  
5 permitted to provide a service if:

6 (1) the volunteer health practitioner knows that  
7 the limitation, modification or restriction exists or that a  
8 similarly licensed practitioner in this state would not be  
9 permitted to provide the service; or

10 (2) from all the facts and circumstances known  
11 to the volunteer health practitioner at the relevant time, a  
12 reasonable person would conclude that the limitation,  
13 modification or restriction exists or that a similarly licensed  
14 practitioner in this state would not be permitted to provide  
15 the service.

16 F. In addition to the authority granted by law of  
17 this state other than the Uniform Emergency Volunteer Health  
18 Practitioners Act to regulate the conduct of health  
19 practitioners, a licensing board or other disciplinary  
20 authority in this state:

21 (1) may impose administrative sanctions upon a  
22 health practitioner licensed in this state for conduct outside  
23 of this state in response to an out-of-state emergency;

24 (2) may impose administrative sanctions upon a  
25 health practitioner not licensed in this state for conduct in

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1 this state in response to an in-state emergency; and

2 (3) shall report any administrative sanctions  
3 imposed upon a health practitioner licensed in another state to  
4 the appropriate licensing board or other disciplinary authority  
5 in any other state in which the practitioner is known to be  
6 licensed.

7 G. In determining whether to impose administrative  
8 sanctions pursuant to Subsection F of this section, a licensing  
9 board or other disciplinary authority shall consider the  
10 circumstances in which the conduct took place, including any  
11 exigent circumstances, and the health practitioner's scope of  
12 practice, education, training, experience and specialized  
13 skill."

14 SECTION 36. Section 12-12A-10 NMSA 1978 (being Laws 2008,  
15 Chapter 47, Section 10) is amended to read:

16 "12-12A-10. REGULATORY AUTHORITY.--The [~~homeland security~~  
17 ~~and emergency management department~~] division may promulgate  
18 rules to implement the Uniform Emergency Volunteer Health  
19 Practitioners Act. In doing so, the [~~homeland security and~~  
20 ~~emergency management department~~] division shall consult with  
21 and consider the recommendations of the entity established to  
22 coordinate the implementation of the Emergency Management  
23 Assistance Compact and shall also consult with and consider  
24 rules promulgated by similarly empowered agencies in other  
25 states to promote uniformity of application of the Uniform

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1 Emergency Volunteer Health Practitioners Act and make the  
2 emergency response systems in the various states reasonably  
3 compatible."

4 SECTION 37. Section 15-8-6 NMSA 1978 (being Laws 1994,  
5 Chapter 119, Section 6, as amended by Laws 2009, Chapter 8,  
6 Section 1 and by Laws 2009, Chapter 129, Section 1 and also by  
7 Laws 2009, Chapter 250, Section 6) is amended to read:

8 "15-8-6. STATE VEHICLES--USE--MARKINGS--STATE GOVERNMENT  
9 PLATES.--

10 A. The division shall adopt rules governing the use  
11 of vehicles used by state agencies or by other persons pursuant  
12 to Subsection G of this section, including driver requirements  
13 and responsibilities, under what circumstances someone can be  
14 assigned a state vehicle on a permanent or semipermanent basis  
15 and when custody of a state vehicle can be vested in another  
16 state agency.

17 B. The division may determine that it is impractical  
18 to retain custody of certain state vehicles, and it may provide  
19 that custody reside in another state agency in the following  
20 cases:

21 (1) the state vehicle is used for emergency or  
22 law enforcement purposes; or

23 (2) the state vehicle is a department of  
24 transportation, energy, minerals and natural resources  
25 department, department of game and fish or homeland security

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1 and emergency management division of the department of public  
2 safety passenger vehicle, truck or tractor or heavy road  
3 equipment.

4 C. Except as provided in Subsections E and F of this  
5 section, all state vehicles shall be marked as state vehicles.  
6 Each side of the vehicle shall be marked, in letters not less  
7 than two inches in height, with the following designation of  
8 ownership: "State of New Mexico,..... Department" or "State  
9 of New Mexico Department of ....." and naming the  
10 department using the vehicle.

11 D. Except as provided in Subsections E and F of this  
12 section, all state vehicles shall have specially designed  
13 government registration plates.

14 E. Only state vehicles used for legitimate undercover  
15 law enforcement purposes are exempt from the requirements of  
16 Subsections C and D of this section. All other state vehicles  
17 owned or in the custody of state agencies that have law  
18 enforcement functions shall be marked and have state government  
19 registration plates.

20 F. A state agency may seek custody of state vehicles  
21 as an exception to Subsection B of this section or an exemption  
22 to the provisions of Subsection C of this section by making a  
23 written request to the director, specifying the reasons for the  
24 proposed custody or exemption. The director may approve the  
25 custody or exemption, in writing, indicating the duration and

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1 any conditions of the custody or exemption.

2 G. The division shall adopt rules permitting  
3 individuals enrolled in the state's adaptive driving program to  
4 use special-use state vehicles for evaluation and training  
5 purposes in that program."

6 SECTION 38. Section 29-3-10 NMSA 1978 (being Laws 2006,  
7 Chapter 104, Section 1) is amended to read:

8 "29-3-10. DNA COLLECTION FROM PERSONS ARRESTED.--

9 A. A person eighteen years of age or over who is  
10 arrested for the commission of a felony under the laws of this  
11 state or any other jurisdiction shall provide a DNA sample to  
12 jail or detention facility personnel upon booking. A sample is  
13 not required if it is determined that a sample has previously  
14 been taken, is in the possession of the administrative center,  
15 has not been expunged pursuant to the DNA Identification Act  
16 and is sufficient for DNA identification testing.

17 B. Jail or detention facility personnel who collect  
18 samples pursuant to this section shall forward the samples to  
19 the administrative center.

20 C. Samples shall be collected in accordance with  
21 rules and procedures adopted by the [~~DNA oversight committee~~]  
22 department of public safety, shall be subject to the  
23 confidentiality and penalty provisions of the DNA  
24 Identification Act and shall be used only as authorized by that  
25 act.

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1 D. As used in this section:

2 (1) "administrative center" means the law  
3 enforcement agency or unit that administers and operates the  
4 DNA identification system pursuant to the provisions of the DNA  
5 Identification Act;

6 (2) "DNA" means deoxyribonucleic acid;

7 (3) "felony" means:

8 (a) a sex offense as defined in the  
9 provisions of Section 29-11A-3 NMSA 1978 that is a felony; or

10 (b) any other felony offense that involves  
11 death, great bodily harm, aggravated assault, kidnapping,  
12 burglary, larceny, robbery, aggravated stalking, use of a  
13 firearm or an explosive or a violation pursuant to the  
14 Antiterrorism Act; and

15 (4) "sample" means a sample of biological  
16 material that is sufficient for DNA testing."

17 SECTION 39. Section 29-6-2 NMSA 1978 (being Laws 1941,  
18 Chapter 149, Section 3, as amended) is amended to read:

19 "29-6-2. [~~BOARD OF DIRECTORS--ELECTIONS~~] DEPARTMENT  
20 DUTIES--COMMISSIONS.--

21 A. The control, management, supervision and power of  
22 internal organization of the New Mexico mounted patrol is  
23 vested in [~~a board of directors composed of not less than one~~  
24 ~~member from each troop of the New Mexico mounted patrol elected~~  
25 ~~by the members of the organization to serve for a term of two~~

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1 ~~years and until their successors are duly elected and~~  
2 ~~qualified. The first election hereunder shall be held and~~  
3 ~~conducted at such time and pursuant to such rules promulgated~~  
4 ~~by the governor. Succeeding elections shall be pursuant to~~  
5 ~~rules and regulations promulgated by the qualified and active~~  
6 ~~board of directors] the department of public safety. The~~  
7 ~~department of public safety shall enact rules for the~~  
8 ~~government, control, management, supervision and internal~~  
9 ~~organization of the mounted patrol and to provide for selection~~  
10 ~~of troopers and such officers and noncommissioned officers as~~  
11 ~~may be necessary to command the various units or troops.~~

12 B. The ~~[director]~~ chief of the New Mexico state  
13 police may, at the expense of members of the New Mexico mounted  
14 patrol, execute and deliver to each member of the mounted  
15 patrol proper pocket commissions as emergency and voluntary  
16 state police; the ~~[same]~~ commissions to be effective only upon  
17 specific request of the New Mexico state police in each  
18 instance of service. ~~[Such]~~ The commissions shall bear the  
19 written approval of the governor of New Mexico ~~[such]~~. The  
20 commissions shall automatically expire and new ones be issued  
21 and delivered upon each change ~~[in the directorship]~~ of chief  
22 of the New Mexico state police or the governorship."

23 SECTION 40. A new section of Chapter 29, Article 6 NMSA  
24 1978 is enacted to read:

25 "[NEW MATERIAL] DUTIES OF MOUNTED PATROL BOARD OF

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1 DIRECTORS TO THE DEPARTMENT OF PUBLIC SAFETY.--Beginning July  
2 1, 2011, the department of public safety shall assume the  
3 duties of the mounted patrol board of directors. All rules of  
4 the mounted patrol board of directors shall remain in force  
5 unless the department repeals or amends them."

6 SECTION 41. Section 29-11A-5 NMSA 1978 (being Laws 1995,  
7 Chapter 106, Section 5, as amended by Laws 2007, Chapter 68,  
8 Section 2 and by Laws 2007, Chapter 69, Section 6) is amended  
9 to read:

10 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--  
11 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN  
12 THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

13 A. A county sheriff shall maintain a local registry  
14 of sex offenders in the sheriff's jurisdiction required to  
15 register pursuant to the provisions of the Sex Offender  
16 Registration and Notification Act.

17 B. The county sheriff shall forward:

18 (1) registration information obtained from sex  
19 offenders to the department of public safety. The initial  
20 registration information and any new registration information  
21 subsequently obtained from a sex offender shall be forwarded by  
22 the county sheriff no later than ten working days after the  
23 information is obtained from a sex offender. If the department  
24 of public safety receives information regarding a sex offender  
25 from a governmental entity other than a county sheriff, the

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1 department shall send that information to the sheriff for the  
2 county in which the sex offender resides; and

3 (2) samples of DNA obtained from sex offenders  
4 to the administrative center for the sex offender DNA  
5 identification system pursuant to the provisions of the DNA  
6 Identification Act.

7 C. The department of public safety shall maintain a  
8 central registry of sex offenders required to register pursuant  
9 to the provisions of the Sex Offender Registration and  
10 Notification Act. The department shall participate in the  
11 national sex offender registry administered by the United  
12 States department of justice. The department shall send  
13 conviction information and fingerprints for all sex offenders  
14 registered in New Mexico to the national sex offender registry  
15 administered by the United States department of justice and to  
16 the federal bureau of investigation.

17 D. The department of public safety shall retain  
18 registration information regarding a sex offender convicted for  
19 any of the following sex offenses for the entirety of the sex  
20 offender's natural life:

21 (1) aggravated criminal sexual penetration or  
22 criminal sexual penetration in the first, second or third  
23 degree, as provided in Section 30-9-11 NMSA 1978;

24 (2) criminal sexual contact of a minor in the  
25 second, third or fourth degree, as provided in Section

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1 30-9-13 NMSA 1978;

2 (3) sexual exploitation of children, as provided  
3 in Section 30-6A-3 NMSA 1978;

4 (4) kidnapping, as provided in Section 30-4-1  
5 NMSA 1978, when the victim is less than eighteen years of age  
6 and the offender is not a parent of the victim;

7 (5) criminal sexual contact in the fourth  
8 degree, as provided in Section 30-9-12 NMSA 1978; or

9 (6) attempt to commit any of the sex offenses  
10 set forth in Paragraphs (1) through (5) of this subsection, as  
11 provided in Section 30-28-1 NMSA 1978.

12 E. The department of public safety shall retain  
13 registration information regarding a sex offender convicted for  
14 the following offenses for a period of ten years following the  
15 sex offender's conviction, release from prison or release from  
16 probation or parole, whichever occurs later:

17 (1) criminal sexual penetration in the fourth  
18 degree, as provided in Section 30-9-11 NMSA 1978;

19 (2) sexual exploitation of children by  
20 prostitution, as provided in Section 30-6A-4 NMSA 1978;

21 (3) false imprisonment, as provided in Section  
22 30-4-3 NMSA 1978, when the victim is less than eighteen years  
23 of age and the offender is not a parent of the victim;

24 (4) aggravated indecent exposure, as provided in  
25 Section 30-9-14.3 NMSA 1978;

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1 (5) enticement of child, as provided in Section  
2 30-9-1 NMSA 1978;

3 (6) incest, as provided in Section 30-10-3 NMSA  
4 1978, when the victim is less than eighteen years of age;

5 (7) solicitation to commit criminal sexual  
6 contact of a minor in the second, third or fourth degree, as  
7 provided in Sections 30-9-13 and 30-28-3 NMSA 1978;

8 (8) child solicitation by electronic  
9 communication device, as provided in Section 30-37-3.2 NMSA  
10 1978; or

11 (9) attempt to commit any of the sex offenses  
12 set forth in Paragraphs (1) through (6) of this subsection, as  
13 provided in Section 30-28-1 NMSA 1978.

14 F. Notwithstanding the provisions of Subsection E of  
15 this section, if a sex offender is convicted a second or  
16 subsequent time for a sex offense set forth in that subsection,  
17 the department of public safety shall retain information  
18 regarding the sex offender for the entirety of the sex  
19 offender's natural life.

20 G. The department of public safety shall adopt rules  
21 necessary to carry out the provisions of the Sex Offender  
22 Registration and Notification Act. Rules necessary for the  
23 collection of DNA samples and the administration and operation  
24 of the sex offender DNA identification system shall be adopted  
25 by the [~~DNA identification system oversight committee~~]

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1 department pursuant to the provisions of the DNA Identification  
2 Act."

3 SECTION 42. Section 29-12A-1 NMSA 1978 (being Laws 2003,  
4 Chapter 249, Section 1) is amended to read:

5 "29-12A-1. SHORT TITLE.--~~[This act]~~ Chapter 29, Article  
6 12A NMSA 1978 may be cited as the "Crime Stoppers Act".

7 SECTION 43. Section 29-12A-4 NMSA 1978 (being Laws 2003,  
8 Chapter 249, Section 4) is amended to read:

9 "29-12A-4. CONFIDENTIALITY OF RECORDS.--

10 A. Evidence of a communication between a person  
11 submitting a report to a local crime stoppers program and the  
12 person accepting the report on behalf of the program is not  
13 admissible in a court or an administrative proceeding, except  
14 as provided in Subsection B of this section.

15 B. Records and reports of a local crime stoppers  
16 program are confidential and shall not be produced before a  
17 court or other tribunal, except on a motion by:

18 (1) a criminal defendant claiming that a record  
19 or report contains specific evidence that is exculpatory to the  
20 defendant on trial for that offense; or

21 (2) a person in civil court who has been  
22 exonerated of a criminal charge that was filed as a result of a  
23 report to a local crime stoppers program, and denial of access  
24 to a record or report would leave the person without the  
25 ability to offer prima facie proof that a legal injury was

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1 suffered through the wrongful acts of another.

2 C. Upon motion made pursuant to Subsection B of this  
3 section, a court may subpoena a record or report, but shall  
4 conduct an in camera inspection of the materials produced to  
5 determine whether there is evidence as alleged to warrant  
6 disclosure pursuant to Subsection B of this section. If the  
7 court finds such evidence, the court shall determine how much  
8 of the evidence to disclose and whether the identity of the  
9 person who submitted the report to the local crime stoppers  
10 program must be disclosed.

11 D. The court shall protect the identity of a person  
12 who submits a report to a local crime stoppers program as it  
13 would protect the identity of a confidential police informer.

14 E. A local crime stoppers program shall be certified  
15 by the [~~crime stoppers advisory council~~] department of public  
16 safety before it can claim confidentiality under this section."

17 SECTION 44. Section 29-16-3 NMSA 1978 (being Laws 1997,  
18 Chapter 105, Section 3, as amended) is amended to read:

19 "29-16-3. DEFINITIONS.--As used in the DNA Identification  
20 Act:

21 A. "administrative center" means the part of a  
22 national DNA index system qualified New Mexico crime laboratory  
23 that administers and operates the DNA identification system;

24 B. "CODIS" means the federal bureau of  
25 investigation's national DNA index system for storage and

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1 exchange of DNA records submitted by forensic DNA laboratories;

2 C. "covered offender" means any person convicted of a  
3 felony offense as an adult pursuant to state, federal or  
4 military law or convicted as an adult pursuant to youthful  
5 offender or serious youthful offender proceedings under the  
6 Children's Code or a sex offender required to register pursuant  
7 to the provisions of the Sex Offender Registration and  
8 Notification Act;

9 D. "department" means the department of public  
10 safety;

11 E. "DNA" means deoxyribonucleic acid as the basis of  
12 human heredity;

13 F. "DNA identification system" means the DNA  
14 identification system established pursuant to the DNA  
15 Identification Act;

16 ~~[G. "DNA oversight committee" means the DNA  
17 identification system oversight committee;~~

18 ~~H.]~~ G. "DNA records" means the results of DNA testing  
19 and related information;

20 ~~[I.]~~ H. "DNA testing" means a forensic DNA analysis  
21 that includes restriction fragment length polymorphism,  
22 polymerase chain reaction or other valid methods of DNA typing  
23 performed to obtain identification characteristics of samples;

24 ~~[J.]~~ I. "fund" means the DNA identification system  
25 fund;

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1           ~~[K.]~~ J. "missing persons DNA identification system"  
2 means the missing persons DNA identification system established  
3 by the DNA Identification Act;

4           ~~[H.]~~ K. "sample" means a sample of biological  
5 material sufficient for DNA testing; and

6           ~~[M.]~~ L. "sex offender DNA identification system"  
7 means the sex offender DNA identification system established by  
8 the DNA Identification Act."

9           **SECTION 45.** Section 29-16-4 NMSA 1978 (being Laws 1997,  
10 Chapter 105, Section 4, as amended) is amended to read:

11           "29-16-4. ADMINISTRATIVE CENTER--POWERS AND DUTIES--  
12 TRANSFER TO OTHER LAW ENFORCEMENT AGENCY.--

13           A. The administrative center shall be an appropriate  
14 unit of the department or such other qualified New Mexico law  
15 enforcement agency as the secretary of public safety may  
16 designate in accordance with this section that meets the  
17 requirements for participation in the national DNA index  
18 system.

19           B. The administrative center shall:

20                   (1) establish and administer the DNA  
21 identification system. The DNA identification system shall  
22 provide for collection, storage, DNA testing, maintenance and  
23 comparison of samples and DNA records for forensic and  
24 humanitarian purposes. Those purposes shall include generation  
25 of investigative leads, statistical analysis of DNA profiles

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1 and identification of missing persons and unidentified human  
2 remains. Procedures used for DNA testing shall be compatible  
3 with the procedures the federal bureau of investigation has  
4 specified, including comparable test procedures, laboratory  
5 equipment, supplies and computer software. Procedures used  
6 shall meet or exceed the provisions of the federal DNA  
7 Identification Act of 1994 regarding minimum standards for  
8 state participation in CODIS, including minimum standards for  
9 the acceptance, security and dissemination of DNA records;

10 (2) coordinate sample collection activities;

11 (3) perform or contract for DNA testing;

12 (4) serve as a repository for samples and DNA  
13 records;

14 (5) act as liaison with the federal bureau of  
15 investigation for purposes of CODIS;

16 (6) adopt rules and procedures governing:

17 (a) sample collection;

18 (b) DNA testing;

19 (c) the DNA identification system and DNA  
20 records;

21 (d) the acceptance, security and  
22 dissemination of DNA records; and

23 (e) communication between local, state and  
24 federal law enforcement agencies, the corrections department  
25 and local jails and detention facilities in order to minimize

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1 duplicate sample collections from the same individual;

2 (7) provide training to jail and detention  
3 facility personnel who are required to collect samples pursuant  
4 to Section 29-3-10 NMSA 1978;

5 (8) be reimbursed for, pursuant to the DNA  
6 Identification Act, the costs of sample collection and DNA  
7 testing of samples taken for the purposes of the identification  
8 of missing persons and unidentified human remains;

9 (9) establish and administer the missing persons  
10 DNA identification system as a part of the DNA identification  
11 system; and

12 (10) establish and administer the sex offender  
13 DNA identification system as part of the DNA identification  
14 system.

15 C. The secretary of public safety may designate,  
16 pursuant to a joint powers agreement, the crime laboratory of  
17 the police department for the largest municipality in a class A  
18 county having a population of more than two hundred fifty  
19 thousand at the most recent federal decennial census to act as  
20 the administrative center.

21 D. The secretary of public safety may designate,  
22 pursuant to a joint powers agreement, any other law enforcement  
23 agency to act as administrative center [~~upon recommendation of~~  
24 ~~five voting members of the DNA oversight committee~~]."

25 SECTION 46. Section 29-16-7 NMSA 1978 (being Laws 1997,

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1 Chapter 105, Section 7, as amended) is amended to read:

2 "29-16-7. PROCEDURES FOR COLLECTION OF SAMPLES.--

3 A. The collection of samples pursuant to the  
4 provisions of Section 29-16-6 NMSA 1978 shall be conducted in a  
5 medically approved manner in accordance with rules and  
6 procedures adopted by the [~~DNA oversight committee~~] department.

7 B. A person who collects samples shall be trained in  
8 procedures that meet the requirements and standards specified  
9 in Subsection A of this section.

10 C. A person authorized to collect samples and [~~his~~]  
11 such person's employer shall be immune from liability in any  
12 civil or criminal action with regard to the collection of  
13 samples, if the collection is performed without negligence.  
14 This subsection shall not be deemed to create any additional  
15 liability or waive any immunity of public employees under the  
16 Tort Claims Act.

17 D. Samples shall be stored in accordance with rules  
18 and procedures adopted by the administrative center.

19 E. DNA testing shall be performed by the  
20 administrative center or a contract facility it may designate.

21 F. DNA records and samples shall be securely  
22 classified and stored by the administrative center."

23 SECTION 47. Section 29-16-8 NMSA 1978 (being Laws 1997,  
24 Chapter 105, Section 8, as amended) is amended to read:

25 "29-16-8. CONFIDENTIALITY--DISCLOSURE AND DISSEMINATION

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1 OF DNA RECORDS.--

2 A. DNA records and samples are confidential and shall  
3 not be disclosed except as authorized in the DNA Identification  
4 Act pursuant to the rules and regulations developed and adopted  
5 by the [~~DNA oversight committee~~] department.

6 B. The administrative center shall make DNA records  
7 available for identification, comparison and investigative  
8 purposes to local, state and federal law enforcement agencies  
9 and the state medical investigator pursuant to the rules  
10 developed and adopted by the [~~DNA oversight committee~~]  
11 department. The administrative center may disseminate  
12 statistical or research information derived from samples and  
13 DNA testing if all personal identification is removed pursuant  
14 to the rules developed and adopted by the [~~DNA oversight~~  
15 ~~committee~~] department.

16 C. To minimize duplicate sample collection and  
17 testing, the administrative center may make information  
18 available, by secure electronic methods, to local, state and  
19 federal law enforcement agencies, the corrections department,  
20 jails and detention facilities for the purpose of verifying  
21 whether a sample has been collected from a specific individual.  
22 Information provided under this subsection shall not include  
23 DNA testing results."

24 SECTION 48. Section 29-16-13 NMSA 1978 (being Laws 1997,  
25 Chapter 105, Section 13, as amended) is amended to read:

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1 "29-16-13. DNA IDENTIFICATION SYSTEM FUND CREATED--

2 PURPOSES.--

3 A. The "DNA identification system fund" is created in  
4 the state treasury.

5 B. The fund shall consist of all money received by  
6 appropriation, gift or grant, all money collected pursuant to  
7 Section 29-16-11 NMSA 1978 and all investment income from the  
8 fund.

9 C. Money and investment income in the fund at the end  
10 of any fiscal year shall not revert to the general fund but  
11 shall remain in the fund.

12 D. Money and investment income in the fund is  
13 appropriated to the administrative center for expenditure in  
14 fiscal year 1998 and subsequent fiscal years for the purposes  
15 of the fund.

16 E. The fund shall be used for the purposes of the DNA  
17 Identification Act, including paying the expenses incurred by  
18 the administrative center and all other reasonable expenses.  
19 The administrative center may use money in the fund for loans  
20 or grants of money, equipment or personnel to any law  
21 enforcement agency, correctional facility, jail, detention  
22 facility, judicial agency, the public defender department or  
23 the office of the state medical investigator, upon  
24 recommendation of the [~~DNA oversight committee~~] department."

25 SECTION 49. A new section of the DNA Identification Act

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1 is enacted to read:

2 "[NEW MATERIAL] DUTIES OF DNA IDENTIFICATION SYSTEM  
3 OVERSIGHT COMMITTEE TO THE DEPARTMENT.--Beginning July 1, 2011,  
4 the department shall assume the duties of the DNA  
5 identification system oversight committee. All rules of the  
6 DNA identification system oversight committee shall remain in  
7 force unless the department repeals or amends them."

8 SECTION 50. Section 59A-52-1 NMSA 1978 (being Laws 1984,  
9 Chapter 127, Section 947, as amended) is amended to read:

10 "59A-52-1. STATE FIRE MARSHAL CREATED.--The position of  
11 "state fire marshal" is created as the director of the fire  
12 marshal division [~~under~~] of the [~~public regulation commission~~]  
13 department of public safety."

14 SECTION 51. Section 59A-52-3 NMSA 1978 (being Laws 1984,  
15 Chapter 127, Section 949, as amended) is amended to read:

16 "59A-52-3. DEPUTY STATE FIRE MARSHAL AND OTHER EMPLOYEES--  
17 QUALIFICATIONS OF DEPUTY.--The state fire marshal may employ,  
18 with the consent of the [~~chief of staff of the public regulation~~  
19 ~~commission~~] secretary of public safety, deputy state fire  
20 marshals and other employees to assist in the execution of the  
21 marshal's duties."

22 SECTION 52. Section 59A-52-21 NMSA 1978 (being Laws 1984,  
23 Chapter 127, Section 967, as amended) is amended to read:

24 "59A-52-21. ADMINISTRATIVE APPEAL OF ORDERS AND  
25 MODIFICATIONS.--Any person aggrieved by any order of the state

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1 fire marshal [~~his~~] or the marshal's deputy, [~~or~~] authorized  
2 officer or [~~his~~] designated agent [~~may appeal to the commission~~]  
3 shall have the opportunity to appeal to the secretary of public  
4 safety within ten days from the date of the service of [~~such~~]  
5 the order. The [~~commission~~] secretary or the secretary's  
6 designee shall hear [~~such~~] the party within twenty days after  
7 receipt of an appeal request and shall give not less than ten  
8 days' written notice of the hearing. Within fifteen days after  
9 [~~such~~] the hearing, the [~~commission~~] secretary shall file [~~its~~]  
10 a decision and, unless by [~~its~~] the secretary's authority the  
11 order is revoked or modified, [~~it~~] the order shall be complied  
12 with within the time fixed in the decision, with such time to be  
13 not less than thirty days."

14 SECTION 53. Section 59A-52-23 NMSA 1978 (being Laws 1984,  
15 Chapter 127, Section 969, as amended) is amended to read:

16 "59A-52-23. ENFORCEMENT OF CEASE AND DESIST ORDERS.--After  
17 expiration of time for an administrative appeal, and if no such  
18 appeal has been taken, the state fire marshal may commence an  
19 action in the district court for Santa Fe county to enforce  
20 [~~the~~] a cease and desist order by injunction or other  
21 appropriate remedy as the district court may adjudge. The  
22 [~~commission~~] secretary of public safety may likewise commence an  
23 action in the district court for Santa Fe county to enforce its  
24 decision rendered on appeal from the cease and desist order of  
25 the state fire marshal."

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1           SECTION 54. Section 59A-53-6 NMSA 1978 (being Laws 1984,  
2 Chapter 127, Section 977, as amended) is amended to read:

3           "59A-53-6. APPEAL AND REVIEW OF DETERMINATION.--The marshal  
4 shall promptly notify each incorporated city, town, village and  
5 county fire district affected of [~~his~~] the marshal's  
6 determination of needs, and an incorporated city, town, village  
7 or county fire district may appeal from the determination of the  
8 marshal to the [~~commission~~] secretary of public safety, within  
9 ten days after the determination of needs. The [~~commission~~]  
10 secretary or the secretary's designee shall review the  
11 determination of the marshal in such informal and summary  
12 proceedings as [~~it~~] the secretary or secretary's designee deems  
13 proper and shall certify to the state treasurer annually, on or  
14 before the last day of June, the results of all appeals from the  
15 determinations of the marshal. The certification by the  
16 [~~commission~~] secretary, or by the marshal if no appeal is taken,  
17 shall be final and binding on all concerned and not subject to  
18 any further review."

19           SECTION 55. Section 59A-53-7 NMSA 1978 (being Laws 1984,  
20 Chapter 127, Section 978, as amended) is amended to read:

21           "59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

22           A. Annually on or before the last day of July, the  
23 state treasurer shall distribute from the money in the fire  
24 protection fund, to each incorporated municipality and to each  
25 county fire district, the amount the marshal or the

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1     ~~[commission]~~ secretary of public safety, as the case may be,  
2     has certified to the state treasurer. Payment shall be made to  
3     the treasurer of any incorporated municipality and to the  
4     county treasurer of the county in which any county fire  
5     district is located for credit to the county fire district.

6             B. The state treasurer is authorized to redirect a  
7     distribution to the New Mexico finance authority in the amount  
8     the marshal or the ~~[commission]~~ secretary of public safety, as  
9     the case may be, has certified to the state treasurer pursuant  
10    to an ordinance or a resolution passed by the municipality or  
11    county and a written agreement of the municipality or county in  
12    which any county fire district is located and the New Mexico  
13    finance authority.

14            C. In addition to the distributions made pursuant to  
15    Subsections A and B of this section, upon certification by the  
16    marshal that the balance of the firefighters' survivors fund is  
17    less than fifty thousand dollars (\$50,000), the state treasurer  
18    shall distribute an amount from the fire protection fund to the  
19    firefighters' survivors fund so that the balance of the  
20    firefighters' survivors fund equals fifty thousand dollars  
21    (\$50,000)."

22            SECTION 56. Section 59A-53-19 NMSA 1978 (being Laws 2006,  
23    Chapter 103, Section 8, as amended) is amended to read:

24            "59A-53-19. FIRE PROTECTION GRANT COUNCIL--DUTIES.--

25            A. The "fire protection grant council" is created.

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1 ~~[Subject to the requirements of Subsection B of this section]~~

2 The council shall consist of:

3 (1) a representative of the New Mexico municipal  
4 league;

5 (2) a representative of the New Mexico  
6 association of counties;

7 (3) two members appointed by the ~~[public~~  
8 ~~regulation commission]~~ secretary of public safety, who shall  
9 serve at the pleasure of the ~~[commission]~~ secretary;

10 (4) three members, one from each congressional  
11 district, appointed by the governor, who shall serve at the  
12 pleasure of the governor; and

13 (5) the marshal, who shall serve as a nonvoting  
14 advisory member. The council shall elect a chair and vice  
15 chair from its membership.

16 ~~[B. No appointee to the council shall be a member of~~  
17 ~~the public regulation commission, the superintendent of~~  
18 ~~insurance or any other employee of the commission.]~~

19 ~~G.]~~ B. The public members are entitled to receive per  
20 diem and mileage as provided in the Per Diem and Mileage Act  
21 and shall receive no other compensation, perquisite or  
22 allowance.

23 ~~[D.]~~ C. The council shall develop criteria for  
24 assessing the critical needs of municipal and county fire  
25 districts for:

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- 1 (1) fire apparatus and equipment;
- 2 (2) communications equipment;
- 3 (3) equipment for wildfires;
- 4 (4) fire station construction or expansion;
- 5 (5) equipment for hazardous material response;

6 and

- 7 (6) stipends for volunteer firefighters in
- 8 underserved areas.

9 ~~[E-]~~ D. Applications for grant assistance from the  
10 fire protection grant fund shall be made by fire districts to  
11 the council in accordance with the requirements of the council.  
12 Using criteria developed by the council, the council shall  
13 evaluate applications and prioritize those applications most in  
14 need of grant assistance from the fund. To the extent that  
15 money in the fund is available, the council shall award grant  
16 assistance for those prioritized applications.

17 ~~[F-]~~ E. In awarding grant assistance, the council may  
18 require conditions and procedures necessary to ensure that the  
19 money is expended in the most prudent manner.

20 ~~[G-]~~ F. When considering applications for grant  
21 assistance to pay stipends to volunteer firefighters in  
22 underserved areas, the council shall:

- 23 (1) define "underserved area";
- 24 (2) ensure the proposed stipends will comply
- 25 with the federal Fair Labor Standards Act of 1938 and United

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1 States department of labor requirements for maintaining  
2 volunteer status;

3 (3) require a basic level of training before a  
4 volunteer may receive a stipend;

5 (4) consider whether the fire district requires  
6 a service commitment from its volunteer firefighters in  
7 exchange for stipends; and

8 (5) weight the applications against other  
9 criteria or requirements determined by the council."

10 SECTION 57. Section 63-9D-3 NMSA 1978 (being Laws 1989,  
11 Chapter 25, Section 3, as amended) is amended to read:

12 "63-9D-3. DEFINITIONS.--As used in the Enhanced 911 Act:

13 A. "911 emergency surcharge" means the monthly  
14 uniform charge assessed on each access line in the state [~~and~~],  
15 on each active number for a commercial mobile radio service  
16 subscriber whose billing address is in New Mexico, on each  
17 active number for an interconnected voice over internet  
18 protocol provider and on any other consumer purchase of  
19 communication services provided by a communication service  
20 provider;

21 B. "911 service area" means the area designated by  
22 the fiscal agent or local governing body or the division to  
23 receive enhanced 911 service;

24 C. "access line" means a telecommunications company's  
25 line that has the capability to reach local public safety

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1 agencies by dialing 911, but does not include a line used for  
2 the provision of interexchange services or commercial mobile  
3 radio service;

4 D. "commercial mobile radio service" means service  
5 provided by a wireless real-time two-way voice communication  
6 device, including:

7 (1) radio-telephone communications used in  
8 cellular telephone service;

9 (2) the functional or competitive equivalent of  
10 radio-telephone communications used in cellular telephone  
11 service;

12 (3) a personal communications service; or

13 (4) a network radio access line;

14 E. "commercial mobile radio service provider" means a  
15 person who provides commercial mobile radio services, including  
16 a person who purchases commercial mobile radio service from a  
17 provider and resells that service;

18 F. [~~"commission" means the public regulation~~  
19 ~~commission~~] "communication service" means any service that:

20 (1) uses a telephone line, a wireless real-time  
21 two-way voice communication device, interconnected voice over  
22 internet protocol address, electronic data networks or  
23 protocols or a functional equivalent;

24 (2) is capable of access to, connecting with or  
25 interfacing with the enhanced 911 system; and

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1                   (3) provides or enables real-time or interactive  
2 communication;

3                   G. "communication service provider" means a person  
4 who provides communication services;

5                   [~~G.~~] H. "database" means information that is  
6 collected, formatted and disseminated and that is necessary for  
7 the functioning of the enhanced 911 system, including  
8 geographic information system (GIS) addressing and digital  
9 mapping information;

10                   [~~H.~~] I. "department" means the taxation and revenue  
11 department;

12                   [~~I.~~] J. "division" means the [~~local government~~  
13 ~~division of the department of finance and administration~~]  
14 enhanced 911 division of the department of public safety;

15                   K. "emergency services internet protocol network"  
16 means an internet-protocol-based, multipurpose network  
17 supporting local, regional, state and national public safety  
18 communication services in addition to enhanced 911;

19                   [~~J.~~] L. "enhanced 911 system" means a landline,  
20 emergency services internet protocol network, next generation  
21 911 system or wireless system consisting of network switching  
22 equipment, database, mapping and on-premises equipment that  
23 uses the single three-digit number 911 for reporting police,  
24 fire, medical or other emergency situations, thereby enabling a  
25 caller to reach a public safety answering point to report

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1 emergencies by dialing 911, and includes the capability to:

2 (1) selectively route incoming 911 calls to the  
3 appropriate public safety answering point operating in a 911  
4 service area;

5 (2) automatically display the name, address and  
6 telephone number of an incoming 911 call on a video monitor at  
7 the appropriate public safety answering point;

8 (3) provide one or more access paths for  
9 communications between users at different geographic locations  
10 through a network system that may be designed for voice or  
11 data, or both, and may feature limited or open access and may  
12 employ appropriate analog, digital switching, internet protocol  
13 or transmission technologies; and

14 (4) relay to a designated public safety  
15 answering point a 911 caller's number and base station or cell  
16 site location and the latitude and longitude of the 911  
17 caller's location in relation to the designated public safety  
18 answering point;

19 ~~[K-]~~ M. "enhanced 911 equipment" means the public  
20 safety answering point equipment directly related to the  
21 operation of an enhanced 911 system, including automatic number  
22 identification or automatic location identification controllers  
23 and display units, printers, logging recorders and software  
24 associated with call detail recording, call center work  
25 stations, training, latitude and longitude base station or cell

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1 site location data and GIS equipment necessary to obtain and  
2 process vocational map and emergency service zone data for  
3 landline, ~~[and]~~ wireless, emergency services internet protocol  
4 network and next generation 911 system callers;

5 ~~[L.]~~ N. "equipment supplier" means a person who  
6 provides or offers to provide ~~[telecommunications]~~  
7 communications equipment necessary for the establishment of  
8 enhanced 911 services;

9 ~~[M.]~~ O. "fiscal agent" means the local governing body  
10 that administers grants from the fund for a given locality or  
11 region by agreement;

12 ~~[N.]~~ P. "fund" means the enhanced 911 fund;

13 Q. "interconnected voice over internet protocol  
14 provider" means a person who provides interconnected voice over  
15 internet protocol services;

16 R. "interconnected voice over internet protocol  
17 service" means a real-time two-way voice communication service  
18 that requires:

19 (1) a broadband connection; and

20 (2) internet protocol-compatible customer  
21 premises equipment;

22 ~~[O.]~~ S. "local governing body" means the board of  
23 county commissioners of a county or the governing body of a  
24 municipality as defined in the Municipal Code;

25 T. "next generation 911 technology" means technology

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1 developed as part of the United States department of  
2 transportation's next generation 911 technology initiative and  
3 intended to:

4 (1) provide standardized interfaces from call  
5 and message services;

6 (2) process all forms of emergency calls,  
7 including non-vocal multimedia messages;

8 (3) acquire and integrate additional data useful  
9 to call routing and handling;

10 (4) deliver calls, messages and data to the  
11 appropriate public safety answering point and other emergency  
12 entities;

13 (5) support data and communications needs for  
14 coordinated incident response and management; and

15 (6) provide a secure environment for emergency  
16 communications;

17 [P-] U. "proprietary information" means customer  
18 lists, customer counts, technology descriptions or trade  
19 secrets, including the actual or development costs of  
20 individual components of an enhanced 911 system; provided that  
21 such information is designated as proprietary by the  
22 [~~commercial mobile radio~~] communication service provider [~~or~~  
23 ~~telecommunications company~~]; and provided further that  
24 "proprietary information" does not include individual payments  
25 made by the division or any list of names and identifying

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1 information of subscribers who have not paid the surcharge;

2 [Q.] V. "public safety answering point" means a  
3 twenty-four-hour [~~local~~] communications facility that receives  
4 911 service calls and directly dispatches emergency response  
5 services or that relays calls to the appropriate public or  
6 private safety agency;

7 [R.] W. "subscriber" means a person who [~~is a retail~~  
8 ~~purchaser of telecommunications services~~] purchases  
9 communication services from a communication service provider  
10 that are capable of originating a 911 call;

11 [S.] X. "surcharge" means the 911 emergency  
12 surcharge;

13 [T.] Y. "telecommunications company" means a person  
14 who provides wire telecommunications services that are capable  
15 of originating a 911 call; and

16 [U.] Z. "vendor" means a person that provides 911  
17 equipment, service or network support."

18 SECTION 58. Section 63-9D-5 NMSA 1978 (being Laws 1989,  
19 Chapter 25, Section 5, as amended) is amended to read:

20 "63-9D-5. IMPOSITION OF SURCHARGE.--

21 A. There is imposed a 911 emergency surcharge in the  
22 amount of fifty-one cents (\$.51) to be billed to each  
23 subscriber access line by a [~~telecommunications company~~]  
24 communication service provider and on each active number for a  
25 commercial mobile radio service subscriber [~~whose billing~~

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1 ~~address is in New Mexico~~]. The surcharge shall be imposed on  
2 all communication service subscribers and commercial mobile  
3 radio service subscribers whose place of primary use, as  
4 defined in the federal Mobile Telecommunications Sourcing Act,  
5 is in New Mexico; provided, however, that the surcharge shall  
6 not be imposed upon subscribers receiving reduced rates  
7 pursuant to the Low Income Telephone Service Assistance Act.

8 B. [~~Commercial mobile radio~~] Communication service  
9 providers shall [~~be required to~~] bill and collect the surcharge  
10 from their subscribers whose places of primary use, as defined  
11 in the federal Mobile Telecommunications Sourcing Act, are in  
12 New Mexico. [~~Telecommunications companies shall be required to~~  
13 ~~bill and collect the surcharge from their subscribers.~~] The  
14 surcharge [~~required to be collected by the commercial mobile~~  
15 ~~radio service provider, or telecommunications company~~] shall be  
16 added to and stated clearly and separately in the billings to  
17 the subscriber. The surcharge collected by the [~~commercial~~  
18 ~~mobile radio~~] communication service provider [~~telecommunications~~  
19 ~~company~~] shall not be considered revenue of the [~~commercial~~  
20 ~~mobile radio~~] communication service provider [~~or~~  
21 ~~telecommunications company~~].

22 C. A billed subscriber is liable for payment of the  
23 911 emergency surcharge until it has been paid to the  
24 [~~commercial mobile radio~~] communication service provider [~~or~~  
25 ~~telecommunications company~~].

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1           D. A [~~commercial mobile radio~~] communication service  
2 provider [~~or telecommunications company~~] has no obligation to  
3 take legal action to enforce the collection of the surcharge;  
4 an action may be brought by or on behalf of the department. A  
5 [~~commercial mobile radio~~] communication service provider [~~or~~  
6 ~~telecommunications company~~], upon request and not more than  
7 once a year, shall provide to the department a list of the  
8 surcharge amounts uncollected, along with the names and  
9 addresses of subscribers who carry a balance that can be  
10 determined by the [~~commercial mobile radio~~] communication  
11 service provider [~~or telecommunications company~~] to be  
12 nonpayment of the surcharge. The [~~commercial mobile radio~~]  
13 communication service provider [~~or telecommunications company~~]  
14 shall not be held liable for uncollected surcharge amounts.

15           E. The surcharge shall commence with the first  
16 billing period of each communication service subscriber on or  
17 [~~following~~] after July 1, [~~2005~~] 2011."

18           **SECTION 59.** A new section of the Enhanced 911 Act is  
19 enacted to read:

20           "[NEW MATERIAL] IMPOSITION OF SURCHARGE ON PREPAID  
21 WIRELESS COMMUNICATION SERVICES--COLLECTION--ADMINISTRATION--  
22 LIABILITY.--

23           A. There is imposed a 911 emergency surcharge in the  
24 amount of one and eight-tenths percent of each purchase for a  
25 prepaid wireless communication service.

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1           B. A seller shall bill and collect the surcharge from  
2 the consumer purchasing the prepaid wireless communication  
3 service in New Mexico. The purchase of the prepaid wireless  
4 communication service is considered purchased in New Mexico if  
5 the seller is located in the state or if the transaction for  
6 the service is treated as occurring in this state for the  
7 purposes of the Gross Receipts and Compensating Tax Act. The  
8 surcharge shall be added to and stated clearly and separately  
9 in the invoice, receipt or other similar document provided to  
10 the consumer or otherwise disclosed to the consumer.

11           C. The consumer is liable for payment of the  
12 surcharge, except that the seller is liable to remit the  
13 surcharge collected from a consumer to the department as  
14 provided in this section.

15           D. The amount of the prepaid wireless communication  
16 service surcharge shall not be included in the base for  
17 measuring any tax, fee or other charge that is imposed by this  
18 state, any political subdivision of the state or any  
19 intergovernmental agency.

20           E. The audit and appeal procedures applicable under  
21 the Tax Administration Act shall apply to remittance of prepaid  
22 wireless communication service surcharges. The department may  
23 bring action against a seller to enforce collection of the  
24 surcharge.

25           F. The department shall establish procedures by which

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1 a seller may document that a sale does not qualify as a retail  
2 transaction. Such procedures shall coincide with the  
3 procedures for documenting sale for resale transactions for the  
4 Gross Receipts and Compensating Tax Act.

5 G. No provider or seller of prepaid wireless  
6 communication services shall be liable for damages to any  
7 person resulting from or incurred in connection with the  
8 enhanced 911 services provided, or not provided, or for  
9 identifying, or failing to identify, the telephone number,  
10 address, location or name associated with any person or device  
11 that is accessing or attempting to access enhanced 911 service.

12 H. No provider or seller of prepaid wireless  
13 communication services shall be liable for damages to any  
14 person resulting from or incurred in connection with the  
15 provision of any lawful assistance to any investigative or law  
16 enforcement officer of the United States, this or any other  
17 state or any political subdivision of this or any other state,  
18 in connection with any lawful investigation or other law  
19 enforcement activity by such law enforcement officer.

20 I. In addition to the immunity provided in  
21 Subsections G and H of this section, each provider and seller  
22 of prepaid wireless communication services shall be entitled to  
23 the immunity provided in Section 63-9D-10 NMSA 1978.

24 J. As used in this section:

25 (1) "consumer" means a person who purchases

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1 prepaid wireless communication service, if such purchase is not  
2 intended for resale;

3 (2) "prepaid wireless communication service"  
4 means a wireless communication service that allows a caller to  
5 access the enhanced 911 system, which service must be paid for  
6 in advance and is sold in predetermined units or dollars;

7 (3) "provider" means a person that provides  
8 prepaid wireless communication services pursuant to a license  
9 issued by the federal communications commission; and

10 (4) "seller" means a person who sells prepaid  
11 wireless communication services to another person."

12 SECTION 60. Section 63-9D-7 NMSA 1978 (being Laws 1989,  
13 Chapter 25, Section 7, as amended) is amended to read:

14 "63-9D-7. REMITTANCE OF CHARGES--ADMINISTRATIVE FEE.--

15 A. The surcharge collected by a communication service  
16 provider shall be remitted monthly to the department, which  
17 shall administer and enforce collection of the surcharge in  
18 accordance with the Tax Administration Act. The surcharge  
19 shall be remitted to the department no later than the twenty-  
20 fifth day of the month following the month in which the  
21 surcharge was imposed. At that time, a return for the  
22 preceding month shall be filed with the department in such form  
23 as the department and [~~telecommunications company or commercial~~  
24 ~~mobile radio~~] the communication service provider shall agree  
25 upon. A [~~telecommunications company or commercial mobile~~

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1 ~~radio~~] communication service provider required to file a return  
2 shall deliver the return together with a remittance of the  
3 amount of the surcharge payable to the department. The  
4 [~~telecommunications company or commercial mobile radio~~]  
5 communication service provider shall maintain a record of the  
6 amount of each surcharge collected pursuant to the Enhanced 911  
7 Act. The record shall be maintained for a period of three  
8 years after the time the surcharges were collected.

9 B. The surcharge collected for a prepaid wireless  
10 communication service, as defined in Paragraph (2) of  
11 Subsection J of Section 59 of this 2011 act, shall be remitted  
12 to the department by the seller, as defined in Paragraph (4) of  
13 that subsection, at the times and in the manner provided in the  
14 Gross Receipts and Compensating Tax Act. The department shall  
15 establish registration and payment procedures that  
16 substantially coincide with the registration and payment  
17 procedures that apply to the Gross Receipts and Compensating  
18 Tax Act.

19 [~~B.~~] C. From a remittance to the department made on  
20 or before the date it becomes due, a [~~telecommunications~~  
21 ~~company or commercial mobile radio~~] communication service  
22 provider or prepaid wireless communication service provider  
23 required to make a remittance shall be entitled to deduct and  
24 retain one percent of the collected amount or fifty dollars  
25 (\$50.00), whichever is greater, as the administrative cost for

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1 collecting the surcharge."

2 SECTION 61. Section 63-9D-8 NMSA 1978 (being Laws 1989,  
3 Chapter 25, Section 8, as amended) is amended to read:

4 "63-9D-8. ENHANCED 911 FUND--CREATION--ADMINISTRATION--  
5 DISBURSEMENT--REPORTS TO LEGISLATURE.--

6 A. There is created in the state treasury a fund  
7 that shall be known as the "enhanced 911 fund". The fund shall  
8 be administered by the division.

9 B. All surcharges collected and remitted to the  
10 department shall be deposited in the fund.

11 C. Money deposited in the fund and income earned by  
12 investment of the fund are appropriated for expenditure in  
13 accordance with the Enhanced 911 Act and shall not revert to  
14 the general fund.

15 D. Payments shall be made from the fund to, or on  
16 behalf of, participating local governing bodies or their fiscal  
17 agents upon vouchers signed by the director of the division  
18 solely for the purpose of reimbursing local governing bodies or  
19 their fiscal agents [~~commercial mobile radio~~] or communication  
20 service providers [~~or telecommunications companies~~] for their  
21 costs of providing enhanced 911 service. A person who  
22 purchases [~~commercial mobile radio~~] communication services [~~or~~  
23 ~~telecommunications services~~] from a [~~commercial mobile radio~~]  
24 communication service provider [~~or telecommunications company~~]  
25 for the purpose of reselling that service is not eligible for

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1 reimbursement from the fund. Money in the fund may be used for  
2 the payment of bonds issued pursuant to the Enhanced 911 Bond  
3 Act.

4 E. Annually, the division may expend no more than  
5 five percent of all money deposited annually in the fund for  
6 administering and coordinating activities associated with  
7 implementation of the Enhanced 911 Act.

8 F. Money in the fund may be awarded as grant  
9 assistance to provide enhanced 911 service and equipment upon  
10 application of local governing bodies or their fiscal agents to  
11 the division and upon approval by the state board of finance.  
12 If it is anticipated that the funds available to pay all  
13 requests for grants will be insufficient, the state board of  
14 finance may reduce the percentage of assistance to be awarded.  
15 In the event of such reduction, the state board of finance may  
16 award supplemental grants to local governing bodies that  
17 demonstrate financial hardship.

18 G. After requesting enhanced 911 service from a  
19 [~~telecommunications company or commercial mobile radio~~]  
20 communication service provider, a local governing body may, by  
21 ordinance or resolution, recover from the fund an amount  
22 necessary to recover the costs of providing the enhanced 911  
23 system in its designated 911 service area. The division, on  
24 behalf of local governing bodies, shall directly pay or  
25 reimburse [~~commercial mobile radio~~] communication service

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1 providers [~~and telecommunications companies~~] for their costs of  
2 providing enhanced 911 service. If a [~~commercial mobile radio~~]  
3 communication service provider [~~or telecommunications company~~]  
4 does not receive payment or reimbursement for the costs of  
5 providing enhanced 911 service, the provider is not obligated  
6 to provide that service.

7 H. Pursuant to Section 65 of this 2011 act, money in  
8 the fund may be used by the division to provide for a statewide  
9 enhanced 911 system and for implementation of next generation  
10 911 technology or an emergency services internet protocol  
11 network.

12 [~~H.~~] I. The division shall report to the legislature  
13 each session the status of the fund and whether the current  
14 level of the 911 emergency surcharge is sufficient, excessive  
15 or insufficient to fund the anticipated needs for the next  
16 year."

17 **SECTION 62.** Section 63-9D-8.1 NMSA 1978 (being Laws 1990,  
18 Chapter 87, Section 3, as amended) is amended to read:

19 "63-9D-8.1. DIVISION POWERS.--

20 A. The division may adopt reasonable rules necessary  
21 to carry out the provisions of the Enhanced 911 Act.

22 B. The division may fund enhanced 911 systems  
23 pursuant to the provisions of the Enhanced 911 Act.

24 C. Division powers are limited and do not include  
25 power to intervene between two vendors or restrict marketing

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1 efforts of vendors.

2 D. The division and the local governing body may  
3 establish 911 service areas.

4 E. Unless otherwise provided by law, no rule  
5 affecting any person, agency, local governing body [~~commercial~~  
6 ~~mobile radio~~] or communication service provider [~~or~~  
7 ~~telecommunications company~~] shall be adopted, amended or  
8 repealed without a public hearing on the proposed action before  
9 the director of the division or a hearing officer designated by  
10 the director. The public hearing shall be held in Santa Fe  
11 unless otherwise permitted by statute. Notice of the subject  
12 matter of the rule, the action proposed to be taken, the time  
13 and place of the hearing, the manner in which interested  
14 persons may present their views and the method by which copies  
15 of the proposed rule or proposed amendment or repeal of an  
16 existing rule may be obtained shall be published once at least  
17 thirty days prior to the hearing in a newspaper of general  
18 circulation and mailed at least thirty days prior to the  
19 hearing date to all persons or agencies who have made a written  
20 request for advance notice of the hearing and to all local  
21 governing bodies [~~telecommunications companies and commercial~~  
22 ~~mobile radio~~] and communication service providers.

23 F. All rules shall be filed in accordance with the  
24 State Rules Act."

25 SECTION 63. Section 63-9D-10 NMSA 1978 (being Laws 1989,

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1 Chapter 25, Section 10, as amended) is amended to read:

2 "63-9D-10. IMMUNITY.--Enhanced 911 systems are within the  
3 governmental powers and authorities of the local governing body  
4 or state agency in the provision of services for the public  
5 health, welfare and safety. In contracting for such services  
6 or the provisioning of an enhanced 911 system, except for  
7 willful or wanton negligence or intentional acts, the local  
8 governing body, public agency, equipment supplier,  
9 [~~telecommunications company, commercial mobile radio~~]  
10 communication service provider and their employees and agents  
11 are not liable for damages resulting from installing,  
12 maintaining or providing enhanced 911 systems or transmitting  
13 911 calls."

14 SECTION 64. Section 63-9D-11 NMSA 1978 (being Laws 1989,  
15 Chapter 25, Section 11, as amended) is amended to read:

16 "63-9D-11. PRIVATE LISTING SUBSCRIBERS AND 911 SERVICE.--

17 A. Private listing subscribers waive the privacy  
18 afforded by nonlisted or nonpublished numbers only to the  
19 extent that the name and address associated with the telephone  
20 number may be furnished to the enhanced 911 system for call  
21 routing or for automatic retrieval of location information in  
22 response to a call initiated to 911.

23 B. Information regarding the identity of private  
24 listing subscribers who subscribe to any communication service  
25 offered by a communication service provider, including names,

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1 addresses, telephone numbers or other identifying information,  
2 is not a public record and is not available for inspection.

3 C. Proprietary information provided by a [~~commercial~~  
4 ~~mobile radio~~] communication service provider [~~or~~  
5 ~~telecommunications company~~] is not public information and [~~may~~]  
6 shall not be released to any person without the express  
7 permission of the submitting provider, except that information  
8 may be released or published as aggregated data that does not  
9 identify the number of subscribers or identify enhanced 911  
10 system costs attributable to an individual [~~commercial mobile~~  
11 ~~radio~~] communication service provider [~~or telecommunications~~  
12 ~~company~~]."

13 SECTION 65. A new section of the Enhanced 911 Act is  
14 enacted to read:

15 "[NEW MATERIAL] STATEWIDE ENHANCED 911 SYSTEM--NEXT  
16 GENERATION 911 PROGRAMS--DEPARTMENT OF INFORMATION TECHNOLOGY.--

17 A. The division shall work with the department of  
18 information technology to provide a statewide enhanced 911  
19 system that includes next generation 911 technology and an  
20 emergency services internet protocol network.

21 B. A local governing body that controls a public  
22 safety answering point shall connect to the statewide enhanced  
23 911 system once the statewide enhanced 911 system is fully  
24 operational.

25 C. The department of information technology shall

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1 provide all technical infrastructure needed for the development  
2 of a statewide enhanced 911 system, including next generation  
3 911 technologies and an emergency services internet protocol  
4 network."

5 SECTION 66. Section 63-9D-11.1 NMSA 1978 (being Laws  
6 1993, Chapter 48, Section 13) is amended to read:

7 "63-9D-11.1. VIOLATION--PENALTIES.--

8 A. Any person who knowingly dials 911 for the purpose  
9 of reporting a false alarm, making a false complaint or  
10 reporting false information that results in an emergency  
11 response by any public safety agency is guilty of a petty  
12 misdemeanor and shall be punished by a fine of not more than  
13 five hundred dollars (\$500) or imprisonment for a term not to  
14 exceed six months, or both.

15 B. A municipality or county may adopt an ordinance  
16 making it a violation for any person to knowingly dial 911 for  
17 the purpose of reporting a false alarm, making a false  
18 complaint or reporting false information that results in an  
19 emergency response by any public safety agency. The  
20 municipality may adopt and enforce the ordinance pursuant to  
21 the authority provided in Section 3-17-1 NMSA 1978. The county  
22 may adopt and enforce the ordinance pursuant to the authority  
23 provided in Section 4-37-1 NMSA 1978."

24 SECTION 67. Section 63-9D-13 NMSA 1978 (being Laws 1990,  
25 Chapter 61, Section 2, as amended) is amended to read:

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1 "63-9D-13. DEFINITIONS.--As used in the Enhanced 911 Bond  
2 Act:

- 3 A. "board" means the state board of finance;
- 4 B. "division" means the [~~local government division of~~  
5 ~~the department of finance and administration~~] enhanced 911  
6 division of the department of public safety;

7 C. "enhanced 911 bonds" means the bonds authorized in  
8 the Enhanced 911 Bond Act;

9 D. "enhanced 911 project" means actions authorized  
10 under Section 63-9D-14 NMSA 1978 that pertain to a specific  
11 component of the enhanced 911 system; and

12 E. "enhanced 911 revenue" means the revenue to and  
13 the income of the enhanced 911 fund that are pledged to the  
14 payment of enhanced 911 bonds under the Enhanced 911 Bond Act."

15 SECTION 68. Section 63-9D-14 NMSA 1978 (being Laws 1990,  
16 Chapter 61, Section 3, as amended) is amended to read:

17 "63-9D-14. ENHANCED 911 BONDS--AUTHORITY TO ISSUE--PLEDGE  
18 OF REVENUES--LIMITATION ON ISSUANCE.--

19 A. In addition to any other law authorizing the board  
20 to issue revenue bonds, the board may issue enhanced 911 bonds  
21 pursuant to the Enhanced 911 Bond Act for the purposes  
22 specified in this section.

23 B. Enhanced 911 bonds may be issued for:  
24 (1) acquiring, extending, enlarging, bettering,  
25 repairing, improving, constructing, purchasing, furnishing,

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1 equipping or rehabilitating the enhanced 911 system, the  
2 payment of which shall be secured by enhanced 911 revenues;

3 (2) reimbursing a ~~[commercial mobile radio]~~  
4 communication service provider, ~~[or telecommunications company]~~  
5 as defined in Subsection G of Section 63-9D-3 NMSA 1978, for  
6 its reasonable costs of providing enhanced 911 service, the  
7 payment of which shall be secured by enhanced 911 revenues;  
8 ~~[or]~~

9 (3) reimbursing a local governing body or its  
10 fiscal agent for its reasonable costs of providing the enhanced  
11 911 system, the payment of which shall be secured by enhanced  
12 911 revenues; or

13 (4) reimbursing the division or the department  
14 of information technology for its reasonable costs of providing  
15 a statewide enhanced 911 system, emergency services internet  
16 protocol network and next generation 911 technology programs,  
17 as defined in Section 63-9D-3 NMSA 1978.

18 C. The board may pledge irrevocably enhanced 911  
19 revenues in the manner set forth in Subsection B of this  
20 section to the payment of the interest on and principal of  
21 enhanced 911 bonds. Any general determination by the board  
22 that expenditures are reasonably related to and constitute a  
23 part of a specified enhanced 911 project shall be conclusive if  
24 set forth in the proceedings authorizing the enhanced 911  
25 bonds."

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1           SECTION 69. Section 74-4E-3 NMSA 1978 (being Laws 1989,  
2 Chapter 149, Section 3, as amended) is amended to read:

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

5           A. "commission" means the state emergency response  
6 commission;

7           B. "department" or "division" means the homeland  
8 security and emergency management division of the department of  
9 public safety;

10          C. "emergency responder" means any law enforcement  
11 officer, firefighter, medical services professional or other  
12 person trained and equipped to respond to hazardous chemical  
13 releases;

14          D. "hazardous chemical" means any hazardous chemical,  
15 extremely hazardous substance, toxic chemical or hazardous  
16 material as defined by Title 3;

17          E. "facility owner or operator" means any individual,  
18 trust, firm, joint stock company, corporation, partnership,  
19 association, state agency, municipality or county having legal  
20 control or authority over buildings, equipment, structures and  
21 other stationary items that are located on a single site or on  
22 contiguous or adjacent sites. For the purposes of Section  
23 74-4E-5 NMSA 1978, the term includes owners or operators of  
24 motor vehicles, rolling stock and aircraft;

25          F. "local emergency planning committee" means any

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1 local group appointed by the commission to undertake chemical  
2 release contingency planning;

3 G. "release" means any spilling, leaking, pumping,  
4 pouring, emitting, emptying, discharging, injecting, escaping,  
5 leaching, dumping or disposing into the environment of any  
6 hazardous chemical, extremely hazardous substance or toxic  
7 chemical. "Release" includes the abandonment or discarding of  
8 barrels, containers and other closed receptacles; and

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

11 SECTION 70. A new section of the Hazardous Chemicals  
12 Information Act is enacted to read:

13 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED  
14 REPEAL.--The state emergency response commission is terminated  
15 on July 1, 2015 pursuant to the provisions of the Sunset Act.  
16 The commission shall continue to operate according to the  
17 provisions of Section 74-4E-4 NMSA 1978 until July 1, 2016.  
18 Effective July 1, 2016, Section 74-4E-4 NMSA 1978 is repealed."

19 SECTION 71. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,  
20 APPROPRIATIONS AND PROPERTY--CONTRACTUAL OBLIGATIONS--STATUTORY  
21 REFERENCES.--

22 A. On the effective date of this act, all functions,  
23 personnel, appropriations, money, records, furniture, equipment  
24 and other property of the following agencies shall be  
25 transferred to the department of public safety:

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1 (1) the homeland security and emergency  
2 management department;

3 (2) the fire marshal division of the public  
4 regulation commission; and

5 (3) the local government division of the  
6 department of finance and administration relating to the  
7 Enhanced 911 Act and the Enhanced 911 Bond Act.

8 B. On the effective date of this act, all functions,  
9 appropriations, money, records, furniture, equipment and other  
10 property of the crime stoppers advisory council and the mounted  
11 patrol board of directors shall be transferred to the  
12 department of public safety.

13 C. On the effective date of this act, contractual  
14 obligations of the following entities are binding on the  
15 department of public safety:

16 (1) the homeland security and emergency  
17 management department;

18 (2) the fire marshal division of the public  
19 regulation commission;

20 (3) the local government division of the  
21 department of finance and administration relating to the  
22 Enhanced 911 Act and the Enhanced 911 Bond Act;

23 (4) the crime stoppers advisory council; and

24 (5) the mounted patrol board of directors.

25 D. On the effective date of this act, all references

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underscored material = new  
[bracketed material] = delete

1 in the law to the homeland security and emergency management  
2 department shall be deemed to be references in law to the  
3 homeland security and emergency management division of the  
4 department of public safety. All references in the law to the  
5 state director of homeland security and emergency management or  
6 to the secretary of homeland security and emergency management  
7 shall be deemed to be references to the director of the  
8 homeland security and emergency management division of the  
9 department of public safety.

10 E. On the effective date of this act, all references  
11 in the law to the fire marshal division of the public  
12 regulation commission shall be deemed to be references in law  
13 to the fire marshal division of the department of public  
14 safety.

15 SECTION 72. TEMPORARY PROVISION--RECOMPILATION.--Sections  
16 8-8-9.1 and 8-8-9.3 NMSA 1978 (being Laws 2001, Chapter 80,  
17 Section 1 and Laws 2007, Chapter 161, Section 4) are recompiled  
18 in the Department of Public Safety Act.

19 SECTION 73. REPEAL.--Sections 9-28-1 through 9-28-7,  
20 29-6-3, 29-12A-2, 29-12A-3 and 29-16-5 NMSA 1978 (being Laws  
21 2007, Chapter 291, Sections 1 through 6 and 35, Laws 1941,  
22 Chapter 149, Section 4, Laws 2003, Chapter 249, Sections 2 and  
23 3 and Laws 1997, Chapter 105, Section 5, as amended) are  
24 repealed.

25 SECTION 74. EFFECTIVE DATE.--The effective date of the

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

1 provisions of this act is July 1, 2011.

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