

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 559

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Larry A. Larranaga

AN ACT

RELATING TO PROFESSIONAL AND OCCUPATIONAL LICENSES; AMENDING,
REPEALING AND ENACTING SECTIONS OF THE ENGINEERING AND
SURVEYING PRACTICE ACT; CHANGING PROFESSIONAL REQUIREMENTS
FROM REGISTRATION TO LICENSURE.

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

Section 1. Section 61-23-2 NMSA 1978 (being Laws 1987,
Chapter 336, Section 2, as amended) is amended to read:

"61-23-2. DECLARATION OF POLICY. -- The legislature
declares that it is a matter of public safety, interest and
concern that the practices of engineering and surveying merit
and receive the confidence of the public and that only
qualified persons be permitted to engage in the practices of
engineering and surveying. In order to safeguard life, health
and property and to promote the public welfare, any person in

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 either public or private capacity practicing or offering to
2 practice engineering or surveying shall be required to submit
3 evidence that he is qualified to so practice and shall be
4 [~~registered~~] licensed as provided in the Engineering and
5 Surveying Practice Act. It [~~shall be~~] is unlawful for any
6 person to practice or offer to practice in New Mexico or to
7 use in connection with his name or otherwise assume, use or
8 advertise any title or description tending to convey the
9 impression that he is a professional, licensed [~~or registered~~]
10 engineer or surveyor unless that person is [~~registered~~]
11 licensed or exempt under the provisions of the Engineering and
12 Surveying Practice Act. The practice of engineering or
13 surveying shall be deemed a privilege granted by the [~~state~~]
14 board [~~of registration for professional engineers and~~
15 ~~surveyors~~] based on the qualifications of the individual as
16 evidenced by the [~~registrant's~~] licensee's certificate, [~~that~~]
17 which shall not be transferable."

18 Section 2. Section 61-23-3 NMSA 1978 (being Laws 1987,
19 Chapter 336, Section 3, as amended) is amended to read:

20 "61-23-3. DEFINITIONS.--As used in the Engineering and
21 Surveying Practice Act:

22 A. "approved" or "approval" means acceptable to
23 the board;

24 B. "board" means the state board of [~~registration~~]
25 licensure for professional engineers and surveyors;

. 127038. 2

underscored material = new
[bracketed material] = delete

1 C. "conviction" or "convicted" means any final
2 adjudication of guilt, whether pursuant to a plea [~~or~~] of nolo
3 contendere or otherwise and whether or not the sentence is
4 deferred or suspended;

5 D. "engineer" means a person who is qualified to
6 practice engineering by reason of his intensive preparation
7 and knowledge in the use of mathematics, chemistry, physics
8 and engineering sciences, including the principles and methods
9 of engineering analysis and design acquired by professional
10 education and engineering experience;

11 E. "engineering" or "practice of engineering"
12 means any creative or engineering work that requires
13 engineering education, training and experience in the
14 application of special knowledge of the mathematical, physical
15 and engineering sciences to such creative work as
16 consultation, investigation, forensic investigation,
17 evaluation, planning and design of engineering works and
18 systems, expert technical testimony, engineering studies and
19 the review of construction for the purpose of assuring
20 substantial compliance with drawings and specifications; any
21 of which embrace such creative work, either public or private,
22 in connection with any utilities, structures, buildings,
23 machines, equipment, processes, work systems, projects and
24 industrial or consumer products or equipment of a mechanical,
25 electrical, hydraulic, chemical, pneumatic, environmental or

. 127038. 2

underscored material = new
[bracketed material] = delete

1 thermal nature, insofar as they involve safeguarding life,
2 health or property, and including such other professional
3 services as may be necessary to the planning, progress and
4 completion of any engineering work. The "practice of
5 engineering" may include engineering surveys that include
6 topographic surveying required to support sound conception,
7 planning, design, construction, maintenance and operation of
8 engineering projects but excludes surveying of real property
9 for the establishment of land boundaries, rights of way,
10 easements and the surveys of public lands. The "practice of
11 engineering" does not include responsibility for the
12 supervision of construction, site conditions, operations,
13 equipment, personnel or the maintenance of safety in the work
14 place;

15 F. "engineering committee" means a committee of
16 the board entrusted to implement all business of the
17 Engineering and Surveying Practice Act as it pertains to the
18 practice of engineering;

19 G. "engineer intern" means a person who has
20 qualified for, taken and passed an examination in the
21 fundamental engineering subjects as provided in the
22 Engineering and Surveying Practice Act;

23 H. "fund" means the professional engineers' and
24 surveyors' fund;

25 [~~H.~~] I. "incidental practice" means the

underscored material = new
[bracketed material] = delete

1 performance of other professional services that are related to
2 a [~~registrant's~~] licensee's work as an engineer;

3 [~~I.~~] J. "professional development" means education
4 by a [~~registrant~~] licensee in order to maintain, improve or
5 expand skills and knowledge obtained prior to initial
6 licensure or to develop new and relevant skills and knowledge;

7 [~~J.~~] K. "professional engineer", "consulting
8 engineer", "licensed engineer" or "registered engineer" means
9 a person who is [~~registered~~] licensed by the board to practice
10 the profession of engineering;

11 [~~K.~~] L. "responsible charge" means responsibility
12 for the direction, control and supervision of engineering or
13 surveying work, as the case may be, to assure that the work
14 product has been critically examined and evaluated for
15 compliance with appropriate professional standards by a
16 [~~registrant~~] licensee in that profession, and by sealing or
17 signing the documents, the professional engineer or surveyor
18 accepts responsibility for the engineering or surveying work,
19 respectively, represented by the documents and that applicable
20 engineering or surveying standards have been met;

21 [~~L.~~] M. "surveying" or "practice of surveying"
22 means any service or work, the substantial performance of
23 which involves the application of the principles of
24 mathematics and the related physical and applied sciences for:

- 25 (1) the measuring and locating of lines,

underscored material = new
[bracketed material] = del ete

1 angles, elevations and natural and man-made features in the
2 air, on the surface of the earth, within underground workings
3 and on the beds or bodies of water for the purpose of defining
4 location, areas and volumes;

5 (2) the monumenting of property boundaries
6 and for the platting and layout of lands and subdivisions
7 thereof;

8 (3) the application of photogrammetric
9 methods used to derive topographic and other data;

10 (4) the establishment of horizontal and
11 vertical controls for surveys for design, topographic surveys,
12 including photogrammetric methods, construction surveys of
13 engineering and architectural public works projects; and

14 (5) the preparation and perpetuation of maps,
15 records, plats, field notes and property descriptions;

16 [M-] N. "surveying committee" means a committee of
17 the board entrusted to implement all business of the
18 Engineering and Surveying Practice Act as it pertains to the
19 practice of surveying;

20 [N-] 0. "surveyor" or "professional surveyor"
21 means a person who is qualified to practice surveying by
22 reason of his intensive preparation and knowledge in the use
23 of mathematics, physical and applied sciences and surveying,
24 including the principles and methods of surveying acquired by
25 education and experience, and who is [registered] licensed by

underscored material = new
[bracketed material] = delete

1 the board to practice surveying;

2 [0-] P. "surveyor intern" means a person who has
3 qualified for, taken and passed an examination in the
4 fundamentals of surveying subjects as provided in the
5 Engineering and Surveying Practice Act; and

6 [P-] Q. "surveying work" means the work performed
7 in the practice of surveying.

8 [~~The board recognizes that there may be an overlap~~
9 ~~between the work of engineers and surveyors in obtaining~~
10 ~~survey information for the planning and design of an~~
11 ~~engineering project. A registered professional engineer who~~
12 ~~has primary engineering responsibility and control of an~~
13 ~~engineering project may perform an engineering survey. A~~
14 ~~registered professional engineer may apply photogrammetric~~
15 ~~methods to derive topographic and other data.-]~~

16 Section 3. Section 61-23-5 NMSA 1978 (being Laws 1987,
17 Chapter 336, Section 5, as amended) is amended to read:

18 "61-23-5. STATE BOARD OF [REGISTRATION] LICENSURE FOR
19 PROFESSIONAL ENGINEERS AND SURVEYORS-- MEMBERS-- TERMS. --

20 A. There is created the "state board of
21 [~~registration~~] licensure for professional engineers and
22 surveyors" [~~that~~] which shall consist of five [~~registered~~]
23 licensed professional engineers, at least one of whom shall be
24 in engineering education, three [~~registered~~] licensed
25 professional surveyors and two public members.

underscored material = new
[bracketed material] = del ete

1 B. The members of the board shall be appointed by
2 the governor for staggered terms of five years. The
3 appointees shall have the qualifications required by Section
4 61-23-6 NMSA 1978. The appointments shall be made in such a
5 manner that the terms of not more than two members expire in
6 each year. Each member of the board shall receive a
7 certificate of appointment from the governor. Before the
8 beginning of the term of office, the appointee shall file with
9 the secretary of state a written oath or affirmation for the
10 faithful discharge of official duty. A member of the board
11 may be reappointed but may not serve more than two consecutive
12 full terms. A member shall not be reappointed to the board
13 for at least two years after serving two consecutive full
14 terms. The board may designate any former board member to
15 assist it in an advisory capacity.

16 C. Each member may hold office until the
17 expiration of the term for which appointed or until a
18 successor has been duly qualified and appointed. In the event
19 of a vacancy for any cause that results in an unexpired term,
20 if not filled within three months by official action, the
21 board may appoint a provisional member to serve until the
22 governor acts. Vacancies on the board shall be filled by
23 appointment by the governor for the balance of the unexpired
24 term "

25 Section 4. Section 61-23-6 NMSA 1978 (being Laws 1987,
. 127038. 2

underscored material = new
[bracketed material] = delete

1 Chapter 336, Section 6, as amended) is amended to read:

2 "61-23-6. BOARD MEMBERS--QUALIFICATIONS. --

3 A. Each engineer member of the board shall be a
4 citizen of the United States and a resident of New Mexico.
5 Each shall have been engaged in the lawful practice of
6 engineering as a professional engineer for at least ten years,
7 including responsible charge of engineering projects for at
8 least five years, or engaged in engineering education for at
9 least ten years, including responsible charge of engineering
10 education for at least five years, and shall be a professional
11 engineer [~~registered~~] licensed in New Mexico.

12 B. Each surveyor member of the board shall be a
13 citizen of the United States and a resident of New Mexico.
14 Each shall have been engaged in the lawful practice of
15 surveying as a professional surveyor for at least ten years,
16 including responsible charge of surveying projects for at
17 least five years, and shall be a professional surveyor
18 [~~registered~~] licensed in New Mexico.

19 C. Each public member shall be a citizen of the
20 United States, a resident of New Mexico [~~and at least thirty-~~
21 ~~five years of age~~], shall not have been [~~registered~~] licensed
22 nor be qualified for [~~registration~~] licensure as an engineer,
23 surveyor, architect or landscape architect and shall not have
24 any significant financial interest, direct or indirect, in the
25 professions regulated. "

underscored material = new
[bracketed material] = delete

1 Section 5. Section 61-23-9 NMSA 1978 (being Laws 1987,
2 Chapter 336, Section 9, as amended) is amended to read:

3 "61-23-9. BOARD--ORGANIZATION--MEETINGS.--

4 A. There shall be an "engineering committee"
5 composed of the five members of the board who serve as
6 [registered] licensed professional engineers and one of the
7 public members, who shall be appointed to the committee by the
8 board. The engineering committee shall meet in conjunction
9 with all board meetings. The bylaws or [regulations] rules of
10 the board shall provide a procedure for giving notice of all
11 meetings and for holding special and emergency meetings. A
12 quorum of the committee shall be a majority of the committee.
13 The committee shall elect a chairman and vice chairman from
14 the committee members at the last committee meeting prior to
15 July 1 of each year.

16 B. There shall be a "surveying committee" composed
17 of the three members of the board who serve as [registered]
18 licensed professional surveyors and one of the public members,
19 who shall be appointed to the committee by the board. The
20 surveying committee shall meet in conjunction with all board
21 meetings. The bylaws or [regulations] rules of the board
22 shall provide a procedure for giving notice of all meetings
23 and for holding special and emergency meetings. A quorum of
24 the committee shall be a majority of the committee. In the
25 event of a lack of a quorum and at the request of the

underscored material = new
[bracketed material] = delete

1 committee, other qualified board members may serve on this
2 committee. The committee shall elect a chairman and vice
3 chairman from the committee members at the last committee
4 meeting prior to July 1 of each year.

5 C. All matters that come before the board that
6 pertain exclusively to engineering or exclusively to surveying
7 shall be referred to the respective committee for disposition.
8 The committee action on such matters shall be the action of
9 the board.

10 D. The board shall hold at least four regular
11 meetings each year. At least one meeting shall be held at the
12 state capitol. The bylaws or [~~regulations~~] rules of the board
13 shall provide procedures for giving notice of all meetings and
14 for holding special meetings. The board shall elect annually
15 a chairman, a vice chairman and a secretary, who shall be
16 members of the board. No member of the board shall be elected
17 to the same office for two consecutive full terms. A quorum
18 of the board shall be a majority of the board. Any board
19 member failing to attend three consecutive regular meetings is
20 automatically removed as a member of the board. The board
21 shall have an official seal."

22 Section 6. Section 61-23-10 NMSA 1978 (being Laws 1987,
23 Chapter 336, Section 10, as amended) is amended to read:

24 "61-23-10. DUTIES AND POWERS OF THE BOARD. --

25 A. It shall be the duty of the board to administer

underscored material = new
[bracketed material] = delete

1 the provisions of the Engineering and Surveying Practice Act
2 and to exercise the authority granted the board in that act.
3 The board is authorized to engage such personnel, including an
4 executive director, as it may deem necessary.

5 B. The board shall have the power to adopt and
6 amend all bylaws and rules of procedure consistent with the
7 constitution and the laws of this state that may be reasonable
8 for the proper performance of its duties and the regulation of
9 its procedures, meeting records, examinations and the conduct
10 thereof. The board [~~also~~] shall adopt and promulgate rules of
11 professional responsibility for professional engineers and
12 professional surveyors. All such bylaws and rules shall be
13 binding upon all persons [~~registered under~~] licensed pursuant
14 to the Engineering and Surveying Practice Act.

15 C. To effect the provisions of the Engineering and
16 Surveying Practice Act, the board may, under the chairperson's
17 hand and the board's seal, subpoena witnesses and compel the
18 production of books, papers and documents in any disciplinary
19 action against a [~~registrant~~] licensee or a person practicing
20 or offering to practice without [~~registration~~] licensure. Any
21 member of the board may administer oaths or affirmations to
22 witnesses appearing before the board. If any person refuses
23 to obey any subpoena so issued or refuses to testify or
24 produce any books, papers or documents, the board may apply to
25 a court of competent jurisdiction for an order to compel the

underscored material = new
[bracketed material] = delete

1 requisite action. If any person willfully fails to comply
2 with such an order, that person may be held in contempt of
3 court.

4 D. The board may apply for injunctive relief to
5 enforce the provisions of the Engineering and Surveying
6 Practice Act or to restrain any violation of that act. The
7 members of the board shall not be personally liable under this
8 proceeding.

9 E. The board may subject an applicant for
10 ~~[registration]~~ licensure to such examinations as it deems
11 necessary to determine his qualifications.

12 F. The board shall create enforcement advisory
13 committees composed of licensees as necessary. Each committee
14 shall include at least four licensees in the same category as
15 the respondent. An engineering enforcement advisory committee
16 shall have at least one licensee in the same branch as the
17 respondent. Enforcement advisory committees shall provide
18 technical assistance to the board and its staff. The board
19 shall select members from a list of volunteers submitting
20 their resumes and letters of interest.

21 ~~[F.]~~ G. No action or other legal proceedings for
22 damages shall be instituted against the board, any board
23 member or an agent, an employee or a member of an advisory
24 committee of the board for any act done in good faith and in
25 the intended performance of any power or duty granted ~~[under]~~

underscored material = new
[bracketed material] = delete

1 pursuant to the Engineering and Surveying Practice Act or for
2 any neglect or default in the good faith performance or
3 exercise of any such power or duty.

4 [G-] H. The board, in cooperation with the board
5 of examiners for architects and the board of landscape
6 architects, shall create a joint standing committee to be
7 known as the "joint practice committee". In order to
8 safeguard life, health and property and to promote the public
9 welfare, the committee shall have as its purpose the promotion
10 and development of the highest professional standards in
11 design, planning and construction and the resolution of
12 ambiguities concerning the professions. The composition of
13 the committee and its powers and duties shall be in accordance
14 with identical resolutions adopted by each board.

15 [H-] I. As used in the Engineering and Surveying
16 Practice Act, "incidental practice" shall be defined by
17 identical regulations of the board [~~of registration for~~
18 ~~professional engineers and surveyors~~] and the board of
19 examiners for architects. "

20 Section 7. Section 61-23-11 NMSA 1978 (being Laws 1987,
21 Chapter 336, Section 11, as amended) is amended to read:

22 "61-23-11. RECEIPTS AND DISBURSEMENT-- FUND CREATED. --

23 A. The "professional engineers' and surveyors'
24 fund" is created in the state treasury. The executive
25 director of the board shall receive and account for all money

underscored material = new
[bracketed material] = delete

1 received under the provisions of the Engineering and Surveying
2 Practice Act and shall pay that money to the state treasurer
3 for deposit in [~~a separate~~] the fund [~~to be known as the~~
4 "~~professional engineers' and surveyors' fund~~". Money in this
5 fund shall be paid out only by warrant of the secretary of
6 finance and administration upon the state treasurer, upon
7 itemized vouchers approved by the chairman and attested by the
8 executive director of the board. All money in the
9 [~~professional engineers' and surveyors'~~] fund is appropriated
10 for the use of the board. Earnings from investment of the
11 fund shall accrue to the credit of the fund.

12 B. The executive director of the board shall give
13 a surety bond to the state in such sum as the board may
14 determine. The premium on the bond shall be regarded as a
15 proper and necessary expense of the board and shall be paid
16 out of the [~~professional engineers' and surveyors'~~] fund.

17 C. The board may make expenditures of the
18 [~~professional engineers' and surveyors'~~] fund for any purpose
19 [~~which~~] that in the opinion of the board is reasonably
20 necessary for the proper performance of its duties [~~under~~]
21 pursuant to the Engineering and Surveying Practice Act,
22 including the expenses of the board's delegates to the
23 conventions of, and for membership dues to, the national
24 council of examiners for engineering and surveying and any of
25 its subdivisions or any other body of similar purpose. "

underscored material = new
[bracketed material] = delete

1 Section 8. Section 61-23-12 NMSA 1978 (being Laws 1987,
2 Chapter 336, Section 12, as amended) is amended to read:

3 "61-23-12. RECORDS AND REPORTS. --

4 A. The board shall keep a record of its
5 proceedings and a register of all applications for
6 ~~[registration]~~ licensure, indicating the name, age and
7 residence of each applicant, the applicant's educational and
8 other qualifications, whether an examination was required,
9 whether the applicant was rejected, whether a certificate of
10 ~~[registration]~~ licensure was granted, the date of the action
11 of the board and such other information as may be deemed
12 necessary by the board. ~~[This]~~ The record and register shall
13 be open to public inspection.

14 B. The following board records and papers are of a
15 confidential nature and are not public records:

- 16 (1) examination material for examinations not
17 yet given;
- 18 (2) file records of examination problem
19 solutions;
- 20 (3) letters of inquiry and reference
21 concerning applicants;
- 22 (4) board inquiry forms concerning
23 applicants;
- 24 (5) investigation files where any
25 investigation is ongoing or is still pending; and

underscored material = new
[bracketed material] = delete

1 (6) all other materials of like confidential
2 nature.

3 C. The records of the board shall be prima facie
4 evidence of the proceedings of the board set forth in those
5 records, and a transcript thereof, duly certified by the
6 secretary of the board under seal, shall be admissible in
7 evidence with the same [~~force and~~] effect as if the original
8 were produced.

9 D. Annually, on or before August 30, the board
10 shall submit to the governor a report of its transactions of
11 the preceding year, accompanied by a complete statement of the
12 receipts and expenditures of the board attested by affidavits
13 of the board's chairman, secretary and executive director."

14 Section 9. Section 61-23-13 NMSA 1978 (being Laws 1987,
15 Chapter 336, Section 13, as amended) is amended to read:

16 "61-23-13. ROSTER OF [~~REGISTERED~~] LICENSED PROFESSIONAL
17 ENGINEERS AND SURVEYORS. --A roster showing the names and
18 addresses of all [~~registered~~] licensed professional engineers
19 and professional surveyors shall be prepared by the executive
20 director of the board prior to September 1 of each even-
21 numbered year. A supplement to the roster shall be prepared
22 by the executive director of the board prior to September 1 of
23 each odd-numbered year. Copies of the roster and supplement
24 shall be [~~mailed~~] made available to each [~~registrant~~] licensee
25 no later than November 30 of each year, shall be placed on

underscored material = new
[bracketed material] = delete

1 file with the secretary of state and the state commission of
2 public records and may be distributed or sold to the public."

3 Section 10. Section 61-23-14 NMSA 1978 (being Laws 1993,
4 Chapter 218, Section 11) is amended to read:

5 "61-23-14. CERTIFICATION AS AN ENGINEER INTERN--
6 REQUIREMENTS. --

7 A. An applicant for certification as an engineer
8 intern shall file the appropriate application that
9 demonstrates that he:

10 (1) is of good moral character and
11 reputation;

12 (2) has obtained at least a senior status in
13 a board-approved, four-year curriculum in engineering [~~related~~
14 ~~science curriculum~~] or in a board-approved, four-year
15 curriculum in engineering technology that is accredited by the
16 technical accreditation commission of the accreditation board
17 for engineering and technology; and

18 (3) has three references, one of whom shall
19 be a [~~registered~~] licensed professional engineer.

20 B. After acceptance of the application by the
21 board, the applicant shall be allowed to take the appropriate
22 examination for certification as an engineer intern. An
23 applicant who has made three unsuccessful attempts at
24 achieving a passing score on the examination shall [~~only~~] be
25 eligible to take the examination only after waiting a calendar

underscored material = new
[bracketed material] = delete

1 year. Thereafter, the applicant may take the examination no
2 more than once each calendar year.

3 C. An applicant may be certified as an engineer
4 intern upon successfully completing the examination, provided
5 that he has:

6 (1) graduated from a board-approved, four-
7 year engineering curriculum; or

8 (2) graduated from a board-approved, four-
9 year [~~related science curriculum or~~] engineering technology
10 program accredited by the technical accreditation commission
11 of the accreditation board for engineering and technology,
12 augmented by at least two years of board-approved, post-
13 graduate engineering experience.

14 D. The certification [~~of~~] as engineer intern does
15 not permit the intern to practice as a professional engineer.
16 Certification as an engineer intern is intended to demonstrate
17 that the intern has obtained certain skills in engineering
18 fundamentals and is pursuing a career in engineering. "

19 Section 11. Section 61-23-14.1 NMSA 1978 (being Laws
20 1993, Chapter 218, Section 12) is amended to read:

21 "61-23-14.1. [~~REGISTRATION~~] LICENSURE AS A PROFESSIONAL
22 ENGINEER-- REQUIREMENTS. --

23 A. [~~Registration~~] Licensure as a professional
24 engineer may be either through examination or through
25 endorsement or comity. In either case, an applicant shall

underscored material = new
[bracketed material] = delete

1 file the appropriate application where he shall demonstrate
2 that he:

- 3 (1) is of good moral character and
4 reputation;
- 5 (2) is certified as an engineer intern;
- 6 (3) has five references, three of whom shall
7 be [~~registrants~~] licensees practicing in the branch of
8 engineering for which the applicant is applying and who have
9 personal knowledge of the applicant's engineering experience
10 and reputation. The use of [~~nonregistered~~] nonlicensed
11 engineer references having personal knowledge of the
12 applicant's engineering experience and reputation other than
13 professional engineers may be accepted by the board provided a
14 satisfactory written explanation is given; and either

15 (4) has at least four years of approved
16 engineering experience after graduation from a board-approved
17 engineering curriculum; or

18 (5) has a minimum of six years of approved
19 engineering experience after graduation from a board-approved
20 four-year [~~related science or~~] engineering technology
21 curriculum.

22 B. After the applicant's application is approved
23 by the board, the applicant shall be allowed to take the
24 appropriate examination for [~~registration~~] licensure as a
25 professional engineer.

underscored material = new
[bracketed material] = delete

1 C. Upon successfully completing the examination,
2 the applicant shall be eligible to [~~register~~] be licensed as a
3 professional engineer upon action of the board.

4 D. An applicant may be [~~registered~~] licensed by
5 endorsement or comity if:

6 (1) he is currently [~~registered~~] licensed as
7 an engineer in the District of Columbia, another state, a
8 territory or a possession of the United States, provided the
9 [~~registration~~] licensure does not conflict with the provisions
10 of the Engineering and Surveying Practice Act and that the
11 standards required by the [~~registration~~] licensure or the
12 applicant's qualifications equaled or exceeded the
13 [~~registration~~] licensure standards in New Mexico at the time
14 the applicant was initially [~~registered~~] licensed; or

15 (2) he is currently [~~registered~~] licensed as
16 an engineer in a foreign country and can demonstrate, to the
17 board's satisfaction, evidence that the [~~registration~~]
18 licensure was based on standards that equal or exceed those
19 [~~presently~~] currently required for [~~registration~~] licensure by
20 the Engineering and Surveying Practice Act and can
21 satisfactorily demonstrate to the board his competence in
22 current engineering standards and procedures. "

23 Section 12. Section 61-23-18 NMSA 1978 (being Laws 1987,
24 Chapter 336, Section 18, as amended) is amended to read:

25 "61-23-18. ENGINEERING-- EXAMINATIONS. -- The examinations

underscored material = new
[bracketed material] = delete

1 for engineering certification and [~~registration~~] licensure
2 shall be held at least once a year at a time and place the
3 board directs. The engineering committee shall determine the
4 passing grade on examinations. "

5 Section 13. Section 61-23-19 NMSA 1978 (being Laws 1987,
6 Chapter 336, Section 19, as amended) is amended to read:

7 "61-23-19. ENGINEERING--CERTIFICATE--SEALS. --

8 A. The board shall issue certificates of
9 [~~registration under~~] licensure pursuant to the provisions of
10 the Engineering and Surveying Practice Act. The board shall
11 provide for the proper authentication of all documents.

12 B. The board shall regulate the use of seals.

13 C. An engineer shall have the right to engage in
14 activities properly classified as architecture insofar as it
15 is incidental to his work as an engineer, provided the
16 engineer shall not hold himself out to be an architect or as
17 performing architectural services unless duly registered as
18 such. "

19 Section 14. Section 61-23-20 NMSA 1978 (being Laws 1987,
20 Chapter 336, Section 20, as amended) is amended to read:

21 "61-23-20. ENGINEERING-- [~~REGISTRATION~~] LICENSE AND
22 RENEWAL FEES-- EXPIRATIONS. --

23 A. [~~Registrations~~] Licensure shall be for a period
24 of two years as prescribed in the [~~regulations and~~] rules of
25 procedure. Initial certificates of [~~registration~~] licensure

underscored material = new
[bracketed material] = delete

1 shall be issued to coincide with the biennial period. The
2 initial [~~registration~~] licensure fee shall be computed
3 proportionately to the amount of time remaining in the
4 biennial [~~registration~~] licensure period.

5 B. The board shall establish by rule a biennial
6 fee for professional engineers. [~~Registration~~] Licensure
7 renewal is accomplished upon payment of the required fee and
8 satisfactory completion of the requirements of professional
9 development.

10 C. The executive director shall send a renewal
11 notice to each [~~registrant's~~] licensee's last known address.
12 Notice shall be mailed at least one month in advance of the
13 date of expiration of the [~~registration~~] license.

14 D. Each [~~registrant~~] licensee's shall have the
15 responsibility to notify the board of any change of address.

16 E. Upon receipt of a renewal fee and fulfillment
17 of other requirements, the board shall issue a [~~registration~~]
18 licensure renewal card that shall show the name and
19 [~~registration~~] license number of the [~~registrant~~] licensee and
20 shall state that the person named [~~therein~~] has been granted
21 [~~registration~~] licensure to practice as a professional
22 engineer for the biennial period.

23 F. Every [~~registration~~] license shall
24 automatically expire if not renewed on or before the last day
25 of the biennial period. A [~~registrant~~] licensee, however,

underscored material = new
[bracketed material] = delete

1 shall be permitted to reinstate a certificate without penalty
2 upon payment of the required fee within sixty days of the last
3 day of the biennial period. After expiration of this grace
4 period, a delinquent [~~registrant~~] licensee may renew a
5 certificate by the payment of twice the biennial renewal fee
6 at any time up to twelve months after the renewal fee became
7 due. Should the [~~registrant~~] licensee wish to renew an
8 expired certificate after the twelve-month period has elapsed,
9 he shall submit a formal application and fee as provided in
10 Section 61-23-17 NMSA 1978. The board, in considering the
11 reapplication, need not question the applicant's
12 qualifications for [~~registration~~] licensure unless the
13 qualifications have changed since the [~~registration has~~]
14 license expired. The board may adopt rules for inactive and
15 retired status."

16 Section 15. Section 61-23-21 NMSA 1978 (being Laws 1987,
17 Chapter 336, Section 21, as amended) is amended to read:

18 "61-23-21. PRACTICE OF ENGINEERING. --

19 A. No firm, partnership, corporation or joint
20 stock association shall be [~~registered under~~] licensed
21 pursuant to the Engineering and Surveying Practice Act. No
22 firm, partnership, corporation or joint stock association
23 shall practice or offer to practice engineering in the state
24 except as provided in the Engineering and Surveying Practice
25 Act.

. 127038. 2

underscored material = new
[bracketed material] = del ete

1 B. Professional engineers may engage in the
2 practice of engineering and perform engineering work [~~under~~
3 pursuant to the Engineering and Surveying Practice Act as
4 individuals, partners or through joint stock associations or
5 corporations. In the case of an individual, the individual
6 shall be a professional engineer [~~under~~] pursuant to the
7 Engineering and Surveying Practice Act. All plans, designs,
8 drawings, specifications or reports that are involved in such
9 practice, issued by or for the practice, shall bear the seal
10 and signature of a professional engineer in responsible charge
11 of and directly responsible for the work issued. In the case
12 of practice through partnership, at least one of the partners
13 shall be a professional engineer [~~under~~] pursuant to the
14 Engineering and Surveying Practice Act, and all plans,
15 designs, drawings, specifications or reports that are involved
16 in such practice, issued by or for the partnership, shall bear
17 the seal and signature of the professional engineer in
18 responsible charge of and directly responsible for such work
19 when issued. In the case of practice through a joint stock
20 association or corporation, services or work involving the
21 practice of engineering may be offered through that joint
22 stock association or corporation; provided the person in
23 responsible charge of the activities of the joint stock
24 association or corporation [~~which~~] that constitute [~~such~~]
25 engineering practice is a professional engineer who has

underscored material = new
[bracketed material] = del ete

1 authority to bind such joint stock association or corporation
2 by contract; and further provided that all plans, designs,
3 drawings, specifications or reports that are involved in
4 [~~such~~] engineering practice, issued by or for such joint stock
5 association or corporation, bear the seal and signature of a
6 professional engineer in responsible charge of and directly
7 responsible for the work when issued.

8 C. An individual, firm, partnership, corporation
9 or joint stock association may not use or assume a name
10 involving the terms "engineer", "professional engineer",
11 "engineering", "registered" or "licensed" engineer or any
12 modification or derivative of such terms unless that
13 individual, firm, partnership, corporation or joint stock
14 association is qualified to practice engineering in accordance
15 with the requirements in this section. "

16 Section 16. Section 61-23-24 NMSA 1978 (being Laws 1993,
17 Chapter 218, Section 18) is amended to read:

18 "61-23-24. ENGINEERING-- VIOLATIONS-- DISCIPLINARY
19 ACTION-- PENALTIES-- REISSUANCE OF CERTIFICATES. --

20 A. The board may suspend, refuse to renew or
21 revoke the certificate of [~~registration~~] licensure, impose a
22 fine not to exceed five thousand dollars (\$5,000), place on
23 probation for a specific period of time with specific
24 conditions or reprimand any professional engineer who is found
25 by the board to have:

. 127038. 2

underscored material = new
[bracketed material] = delete

1 (1) practiced or offered to practice
2 engineering in New Mexico in violation of the Engineering and
3 Surveying Practice Act;

4 (2) attempted to use as his own the
5 certificate of another;

6 (3) given false or forged evidence to the
7 board or to any board member for obtaining a certificate of
8 [~~registration~~] licensure;

9 (4) falsely impersonated any other
10 [~~registrant~~] licensee of like or different name;

11 (5) attempted to use an expired, suspended or
12 revoked certificate of [~~registration~~] licensure;

13 (6) falsely presented himself to be a
14 professional engineer by claim, sign, advertisement or
15 letterhead;

16 (7) violated the rules of professional
17 responsibility for professional engineers adopted and
18 promulgated by the board;

19 (8) been disciplined in another state for
20 action that would constitute a violation of either or both the
21 Engineering and Surveying Practice Act or the rules [~~and~~
22 ~~regulations~~] adopted by the board;

23 (9) been convicted of a felony; or

24 (10) procured, aided or abetted any violation
25 of the provisions of the Engineering and Surveying Practice

underscored material = new
[bracketed material] = delete

1 Act or the rules [~~and regulations~~] of the board.

2 B. Except as provided in Subsection C of Section
3 61-23-21 NMSA 1978, nothing in the Engineering and Surveying
4 Practice Act shall prohibit the general use of the word
5 "engineer", "engineered" or "engineering" so long as such
6 words are not used in an offer to the public to perform
7 engineering work as defined in Subsections E and [J] K of
8 Section 61-23-3 NMSA 1978.

9 C. The board may by rule establish the guidelines
10 for the disposition of disciplinary cases involving specific
11 types of violations. The guidelines may include minimum and
12 maximum fines, periods of probation or conditions of probation
13 or reissuance of a license.

14 D. Failure to pay any fine levied by the board or
15 to otherwise comply with an order issued by the board pursuant
16 to the Uniform Licensing Act [~~shall be~~] is a misdemeanor and
17 shall be grounds for further action against the licensee by
18 the board and for judicial sanctions or relief.

19 E. Any person may prefer charges of fraud, deceit,
20 gross negligence, incompetence or misconduct against any
21 [~~registrant~~] licensed engineer. The charges shall be in
22 writing and shall be sworn to by the person making the charges
23 and filed with the executive director of the board. All
24 charges shall be referred to the engineering committee, acting
25 for the board. No action that would have any of the effects

underscored material = new
[bracketed material] = delete

1 specified in [~~the Uniform Licensing Act, Subsections~~]
2 Subsection D, E, or F of Section 61-1-3 NMSA 1978 may be
3 initiated later than two years after the discovery by the
4 board, but in no case shall an action be brought more than ten
5 years after the completion of the conduct that constitutes the
6 basis for the action. All charges, unless dismissed as
7 unfounded, [~~or~~] trivial, [~~or~~] resolved by reprimand or settled
8 informally, shall be heard in accordance with the [~~provision~~]
9 provisions of the Uniform Licensing Act by the engineering
10 committee acting for the board or by the board.

11 F. Persons making charges shall not be subject to
12 civil or criminal suits, provided that the charges are made in
13 good faith and are not frivolous or malicious.

14 G. The board or any board member may initiate
15 proceedings [~~under~~] pursuant to the provisions of this section
16 in accordance with the provisions of the Uniform Licensing
17 Act. Nothing in the Engineering and Surveying Practice Act
18 shall deny the right of appeal from the decision and order of
19 the board in accordance with the provisions of the Uniform
20 Licensing Act.

21 H. The board, for reasons it deems sufficient, may
22 reissue a certificate of [~~registration~~] licensure to any
23 person whose certificate has been revoked or suspended,
24 providing a majority of the members of the engineering
25 committee, acting for the board, or of the board [~~vote~~] votes

underscored material = new
[bracketed material] = delete

1 in favor of such reissuance. A new certificate of
2 [~~registration~~] licensure bearing the original [~~registration~~]
3 license number to replace any certificate revoked, lost,
4 destroyed or mutilated may be issued subject to the rules of
5 the board with payment of a fee determined by the board.

6 I. The board shall prepare and adopt rules of
7 professional responsibility for professional engineers as
8 provided in the Engineering and Surveying Practice Act that
9 shall be made known in writing to every [~~registrant~~] licensee
10 and applicant for [~~registration under~~] licensure pursuant to
11 that act and shall be published in the roster. Publication
12 and public notice shall be in accordance with the Uniform
13 Licensing Act. The board may revise and amend [~~these~~] the
14 rules of professional responsibility for professional
15 engineers from time to time and shall notify each [~~registrant~~]
16 licensee in writing of such revisions or amendments.

17 J. A violation of any provision of the Engineering
18 and Surveying Practice Act is a misdemeanor punishable upon
19 conviction by a fine of not more than five thousand dollars
20 (\$5,000) or by imprisonment of no more than one year, or both.

21 K. The attorney general or district attorney of
22 the proper district or special prosecutor retained by the
23 board shall prosecute violations of the Engineering and
24 Surveying Practice Act by a [~~nonregistrant~~] nonlicensee.

25 L. The practice of engineering in violation of the

underscored material = new
[bracketed material] = del ete

1 provisions of the Engineering and Surveying Practice Act shall
2 be deemed a nuisance and may be restrained and abated by
3 injunction without bond in an action brought in the name of
4 the state by the district attorney or on behalf of the board
5 by the attorney general or the special prosecutor retained by
6 the board. Action shall be brought in the county that the
7 violation occurs. "

8 Section 17. Section 61-23-26 NMSA 1978 (being Laws 1987,
9 Chapter 336, Section 26, as amended) is amended to read:

10 "61-23-26. [ENGINEERING] PUBLIC WORK. --

11 A. It is unlawful for the state or any of its
12 political subdivisions to engage in the construction of any
13 public work involving engineering unless the plans and
14 specifications involving engineering have been prepared by and
15 are under the responsible charge of a [~~registered~~] licensed
16 professional engineer and the public work involving
17 professional surveying has been executed under the responsible
18 charge of a [~~registered~~] licensed professional surveyor.
19 Nothing in this section shall be held to apply to any public
20 work wherein the contemplated expenditure for the complete
21 project does not exceed one hundred thousand dollars
22 (\$100,000), except for public work involving structural
23 design, structural modifications or surveying.

24 B. The Engineering and Surveying Practice Act
25 shall not apply to construction surveys of engineering and

underscored material = new
[bracketed material] = delete

1 architectural public works projects, the anticipated
2 construction cost of which is less than one hundred thousand
3 dollars (\$100,000). "

4 Section 18. Section 61-23-27 NMSA 1978 (being Laws 1987,
5 Chapter 336, Section 27, as amended) is amended to read:

6 "61-23-27. ENGINEERING--PUBLIC OFFICER-- [REGISTRATION]
7 LICENSURE REQUIRED.--No person except a [registered] licensed
8 professional engineer shall be eligible to hold any
9 responsible office or position for the state or any political
10 subdivision of the state that includes the performance or
11 responsible charge of engineering work. "

12 Section 19. Section 61-23-27.3 NMSA 1978 (being Laws
13 1993, Chapter 218, Section 24) is amended to read:

14 "61-23-27.3. CERTIFICATION OF SURVEYOR INTERN--
15 REQUIREMENTS [EFFECTIVE JULY 1, 1995].--

16 A. [Effective July 1, 1995] An applicant for
17 certification as a surveyor intern shall file the appropriate
18 application where he shall demonstrate that he:

- 19 (1) is of good moral character and
20 reputation;
- 21 (2) has obtained at least a senior status in
22 a board-approved four-year curriculum in surveying; and
- 23 (3) has three references, two of whom shall
24 be [registered] licensed professional surveyors having
25 personal knowledge of the applicant's knowledge and

underscored material = new
[bracketed material] = delete

1 experience.

2 B. After acceptance of the application by the
3 board, the applicant shall be allowed to take the appropriate
4 examination for certification as a surveyor intern.

5 C. Upon successfully completing the examination
6 and an approved four-year surveying curriculum, then by action
7 of the board, the applicant may be certified as a surveyor
8 intern.

9 D. The certification of surveyor intern does not
10 permit the [~~registrant~~] intern to practice surveying.
11 Certification as a surveyor intern is intended to demonstrate
12 that the intern has obtained certain skills in surveying
13 fundamentals and is pursuing a career in surveying.

14 E. If otherwise qualified, a graduate of [~~an~~
15 ~~unapproved~~] a board-approved but related curriculum of at
16 least four years, to be considered for certification as a
17 surveyor intern, shall have a specific record of four years of
18 combined office and field board-approved surveying experience
19 obtained under the direction of a [~~registered~~] licensed
20 professional surveyor. Time spent in obtaining the
21 [~~unapproved or~~] related curriculum will not be counted in the
22 four years of required experience. "

23 Section 20. Section 61-23-27.4 NMSA 1978 (being Laws
24 1993, Chapter 218, Section 25) is amended to read:

25 "61-23-27.4. [~~REGISTRATION~~] LICENSURE AS A PROFESSIONAL

underscored material = new
[bracketed material] = delete

1 SURVEYOR-- GENERAL REQUIREMENTS [~~EFFECTIVE JULY 1, 1995~~]. --

2 A. [~~Effective July 1, 1995, registration~~]

3 Licensure as a professional surveyor may be either through
4 examination or through endorsement or comity. In either case,
5 an applicant shall file the appropriate application where he
6 shall demonstrate that he:

7 (1) is of good moral character and
8 reputation;

9 (2) is certified as a surveyor intern;

10 (3) has at least four years of approved
11 surveying experience [~~after graduation~~] if graduated from a
12 four-year board-approved surveying curriculum or has a minimum
13 of eight years of board-approved surveying experience if
14 graduated from a four-year board-approved related science
15 curriculum; and

16 (4) has five references, three of which shall
17 be from [~~registered~~] licensed professional surveyors having
18 personal knowledge of the applicant's surveying experience.

19 B. The applicant's experience pursuant to
20 Paragraph (3) of Subsection A of this section shall, [~~as~~] at a
21 minimum, include three years of increasingly responsible
22 experience in boundary surveying and four years of
23 increasingly responsible experience under the direct
24 supervision of a [~~registered~~] licensed professional surveyor.

25 C. After acceptance of the application by the

underscored material = new
[bracketed material] = delete

1 board, the applicant shall be allowed to take the appropriate
2 examination for [~~registration~~] licensure as a professional
3 surveyor.

4 D. Upon successfully completing the examination,
5 the applicant shall be eligible to [~~register~~] be licensed as a
6 professional surveyor upon action of the board.

7 E. If otherwise qualified, an applicant may be
8 [~~registered~~] licensed if he is currently [~~registered~~] licensed
9 as a professional surveyor in:

10 (1) the District of Columbia, another state,
11 a territory or a possession of the United States, provided
12 that:

13 (a) [~~registration~~] licensure does not
14 conflict with the provisions of the Engineering and Surveying
15 Practice Act and that the standards required by the
16 [~~registration~~] licensure or the applicant's qualifications
17 equaled or exceeded the [~~registration~~] licensure standards in
18 New Mexico at the time the applicant was initially
19 [~~registered~~] licensed; and

20 (b) the applicant has passed
21 examinations the board deems necessary to determine his
22 qualifications, including a written examination that includes
23 questions on laws, procedures and practices pertaining to
24 surveying in this state; or

25 (2) a foreign country and can demonstrate to

underscored material = new
[bracketed material] = delete

1 the board's satisfaction:

2 (a) evidence that the [~~registration~~]
3 licensure was based on standards that equal or exceed those
4 [~~presently~~] currently required for [~~registration~~] licensure by
5 the Engineering and Surveying Practice Act; and

6 (b) his competence in current surveying
7 standards and procedures by passing examinations the board
8 deems necessary to determine the applicant's qualification,
9 including a written examination that includes questions on
10 laws, procedures and practices pertaining to surveying in New
11 Mexico. "

12 Section 21. Section 61-23-27.5 NMSA 1978 (being Laws
13 1993, Chapter 218, Section 26) is amended to read:

14 "61-23-27.5. SURVEYING--APPLICATION AND EXAMINATION
15 FEES.--

16 A. All applicants for licensure pursuant to the
17 Engineering and Surveying Practice Act shall apply for
18 examination, [~~registration~~] licensure or certification on
19 forms prescribed and furnished by the board. Applications
20 shall be accompanied by the appropriate fee, any sworn
21 statements the board may require to show the applicant's
22 citizenship and education, a detailed summary of his technical
23 work and appropriate references.

24 B. All application, reapplication, examination and
25 reexamination fees shall be set by the board and shall not

underscored material = new
[bracketed material] = delete

1 exceed the actual cost of carrying out the provisions of the
2 Engineering and Surveying Practice Act. Fees shall not be
3 refundable.

4 C. Any application may be denied for fraud,
5 deceit, conviction of a felony or for any crime involving
6 moral turpitude. "

7 Section 22. Section 61-23-27.6 NMSA 1978 (being Laws
8 1993, Chapter 218, Section 27) is amended to read:

9 "61-23-27.6. SURVEYING-- EXAMINATIONS. -- The examinations
10 for surveying certification and [~~registration~~] licensure shall
11 be held at least once a year at a time and place the board
12 directs. The surveying committee shall determine the passing
13 grade on examinations. "

14 Section 23. Section 61-23-27.7 NMSA 1978 (being Laws
15 1993, Chapter 218, Section 28) is amended to read:

16 "61-23-27.7. SURVEYING-- [~~REGISTRATION~~] LICENSURE AND
17 RENEWAL FEES-- EXPIRATIONS. --

18 A. [~~Registrations~~] Licensure shall be for a period
19 of two years as prescribed in the [~~regulations and~~] rules of
20 procedure. Initial certificates of [~~registration~~] licensure
21 shall be issued to coincide with the biennial period. The
22 initial [~~registration~~] licensure fee shall be computed
23 proportionately to the amount of time remaining in the
24 biennial [~~registration~~] licensure period.

25 B. The board shall establish by [~~regulation~~] rule

underscored material = new
[bracketed material] = delete

1 a biennial fee for professional surveyors. Renewal shall be
2 granted upon payment of the required fee and satisfactory
3 completion of the requirements of professional development.

4 C. The executive director shall send a renewal
5 notice to each [~~registrant's~~] licensee's last known address.
6 Notice shall be mailed at least one month in advance of the
7 date of expiration of the [~~registration~~] license.

8 D. It shall be the responsibility of the
9 [~~registrant~~] licensee to notify the board of any change of
10 address and to maintain the certificate of [~~registration~~]
11 licensure current.

12 E. Upon receipt of a renewal fee and fulfillment
13 of other requirements, the board shall issue a [~~registration~~]
14 licensure renewal card that shall show the name and
15 [~~registration~~] license number of the [~~registrant~~] licensee and
16 shall state that the person named [~~therein~~] has been granted
17 [~~registration~~] licensure to practice as a professional
18 surveyor for the biennial period.

19 F. Every certificate of [~~registration~~] licensure
20 shall automatically expire if not renewed on or before the
21 last day of the biennial period. A [~~registrant~~] licensee,
22 however, shall be permitted to reinstate a certificate without
23 penalty upon payment of the required fee within sixty days of
24 the last day of the biennial period. After expiration of this
25 grace period, a delinquent [~~registrant~~] licensee may renew a

underscored material = new
[bracketed material] = delete

1 certificate by the payment of twice the biennial renewal fee
2 at any time up to twelve months after the renewal fee became
3 due. Should the [~~registrant~~] licensee wish to renew an
4 expired certificate after the twelve-month period has elapsed,
5 he shall submit a formal application and fee [~~as provided in~~
6 ~~Section 61-23-27.2 NMSA 1978 or, if after July 1, 1995~~] as
7 provided in Section 61-23-27.4 NMSA 1978 [~~of the Engineering~~
8 ~~and Surveying Practice Act~~]. The board, in considering the
9 reapplication, need not question the applicant's
10 qualifications for [~~registration~~] licensure unless the
11 qualifications have changed since the [~~registration has~~]
12 license expired. "

13 Section 24. Section 61-23-27.8 NMSA 1978 (being Laws
14 1993, Chapter 218, Section 29) is amended to read:

15 "61-23-27.8. SURVEYING CERTIFICATES AND SEALS. --

16 A. The board shall issue certificates of
17 [~~registration under~~] licensure pursuant to the Engineering and
18 Surveying Practice Act. The board shall provide for the
19 proper authentication of all documents.

20 B. The board shall regulate the use of seals. "

21 Section 25. Section 61-23-27.9 NMSA 1978 (being Laws
22 1993, Chapter 218, Section 30) is amended to read:

23 "61-23-27.9. SURVEYING--PRACTICE OF SURVEYING. --

24 A. No firm, partnership, corporation or joint
25 stock association shall be [~~registered under~~] licensed

underscored material = new
[bracketed material] = del ete

1 pursuant to the Engineering and Surveying Practice Act. No
2 firm, partnership, corporation or joint stock association
3 shall practice or offer to practice surveying in the state
4 except as provided in that act.

5 B. Professional surveyors may engage in the
6 practice of surveying and perform surveying work [~~under~~
7 pursuant to the Engineering and Surveying Practice Act as
8 individuals, partners or through joint stock associations or
9 corporations. In the case of an individual, the individual
10 shall be a professional surveyor [~~under~~] pursuant to the
11 Engineering and Surveying Practice Act. All plats, drawings
12 and reports that are involved in the practice, issued by or
13 for the practice, shall bear the seal and signature of a
14 professional surveyor in responsible charge of and directly
15 responsible for the work issued. In the case of practice
16 through a partnership, at least one of the partners shall be a
17 professional surveyor [~~under~~] pursuant to that act [~~and~~]. In
18 the case of a single professional surveyor partner, all
19 drawings or reports issued by or for the partnership shall
20 bear the seal of the professional surveyor partner who shall
21 be responsible for the work. In the case of practice through
22 a joint stock association or corporation, services or work
23 involving the practice of surveying may be offered through
24 [~~such~~] the joint stock association or corporation; provided
25 the person in responsible charge of the activities of the

underscored material = new
[bracketed material] = delete

1 joint stock association or corporation [~~which~~] that constitute
2 the practice is a professional surveyor who has authority to
3 bind such joint stock association or corporation by contract;
4 and further provided that all drawings or reports [~~which~~] that
5 are involved in such practice, issued by or for the joint
6 stock association or corporation, bear the seal and signature
7 of a professional surveyor in responsible charge of and
8 directly responsible for the work when issued.

9 C. An individual, firm, partnership, corporation
10 or joint stock association may not use or assume a name
11 involving the terms "surveyor", "professional surveyor" or
12 "surveying" or any modification or derivative of those terms
13 unless that individual, firm, partnership, corporation or
14 joint stock association is qualified to practice surveying in
15 accordance with the requirements in this section."

16 Section 26. Section 61-23-27.11 NMSA 1978 (being Laws
17 1993, Chapter 218, Section 32) is amended to read:

18 "61-23-27.11. SURVEYING--VIOLATIONS--DISCIPLINARY
19 ACTIONS--PENALTIES--REISSUANCE OF CERTIFICATES.--

20 A. The board may suspend, refuse to renew or
21 revoke the certificate of [~~registration~~] licensure, impose a
22 fine not to exceed five thousand dollars (\$5,000), place on
23 probation for a specific period of time with specific
24 conditions or reprimand any professional surveyor who is found
25 by the board to have:

. 127038. 2

underscored material = new
[bracketed material] = delete

1 (1) practiced or offered to practice
2 surveying in New Mexico in violation of the Engineering and
3 Surveying Practice Act;

4 (2) attempted to use as his own the
5 certificate of another;

6 (3) given false or forged evidence to the
7 board or to any board member for obtaining a certificate of
8 [~~registration~~] licensure;

9 (4) falsely impersonated any other
10 [~~registrant~~] licensee of like or different name;

11 (5) attempted to use an expired, suspended or
12 revoked certificate of [~~registration~~] licensure;

13 (6) falsely presented himself to be a
14 professional surveyor by claim, sign, advertisement or
15 letterhead;

16 (7) violated the rules of professional
17 responsibility for professional surveyors adopted and
18 promulgated by the board;

19 (8) been disciplined in another state for
20 action that would constitute a violation of either or both the
21 Engineering and Surveying Practice Act or the rules [~~and~~
22 ~~regulations~~] adopted by the board pursuant to the Engineering
23 and Surveying Practice Act;

24 (9) been convicted of a felony; or

25 (10) procured, aided or abetted any violation

underscored material = new
[bracketed material] = delete

1 of the provisions of the Engineering and Surveying Practice
2 Act or the rules [~~and regulations~~] adopted by the board.

3 B. The board may by rule establish the guidelines
4 for the disposition of disciplinary cases involving specific
5 types of violations. Guidelines may include minimum and
6 maximum fines, periods of probation or conditions of probation
7 or reissuance of a license.

8 C. Failure to pay any fine levied by the board or
9 to otherwise comply with an order issued by the board pursuant
10 to the Uniform Licensing Act [~~shall be~~] is a misdemeanor and
11 shall be grounds for further action against the licensee by
12 the board and for judicial sanctions or relief.

13 D. Any person may prefer charges of fraud, deceit,
14 gross negligence, incompetency or misconduct against any
15 [~~registrant~~] licensee. Such charges shall be in writing,
16 shall be sworn to by the person making them and shall be filed
17 with the executive director of the board. No action that
18 would have any of the effects specified in [~~the Uniform~~
19 ~~Licensing Act~~] Subsection D, E, or F of Section 61-1-3 NMSA
20 1978 may be initiated later than two years after the discovery
21 by the board, but in no case shall such an action be brought
22 more than ten years after the completion of the conduct that
23 constitutes the basis for the action. All charges shall be
24 referred to the surveying committee, acting for the board, or
25 to the board. All charges, unless dismissed as unfounded,

underscored material = new
[bracketed material] = delete

1 [del] trivial, [del] resolved by reprimand or settled
2 informally, shall be heard in accordance with the provisions
3 of the Uniform Licensing Act by the surveying committee,
4 acting for the board, or by the board.

5 E. Persons making charges shall not be subject to
6 civil or criminal suits, provided the charges are made in good
7 faith and are not frivolous or malicious.

8 F. The board or any board member may initiate
9 proceedings [del] pursuant to the provisions of this section
10 in accordance with the provisions of the Uniform Licensing
11 Act. Nothing in the Engineering and Surveying Practice Act
12 shall deny the right of appeal from the decision and order of
13 the board in accordance with the provisions of the Uniform
14 Licensing Act.

15 G. The board, for reasons it deems sufficient, may
16 reissue a certificate of [del registration] licensure to any
17 person whose certificate has been revoked or suspended,
18 [del providing] provided a majority of the members of the
19 surveying committee, acting for the board, or of the board
20 [del vote] votes in favor of [del such] reissuance. A new certificate
21 of [del registration] licensure bearing the original
22 [del registration] license number to replace any certificate
23 revoked, lost, destroyed or mutilated may be issued subject to
24 the rules of the board with payment of a fee determined by the
25 board.

underscored material = new
[bracketed material] = delete

1 H. The board shall prepare and adopt rules of
2 professional responsibility for professional surveyors as
3 provided in the Engineering and Surveying Practice Act that
4 shall be made known in writing to every [~~registrant~~] licensee
5 and applicant for [~~registration under~~] licensure pursuant to
6 that act and shall be published in the roster. Such
7 publication and public notice shall be in accordance with the
8 Uniform Licensing Act. The board may revise and amend these
9 rules of professional responsibility for professional
10 surveyors from time to time and shall notify each [~~registrant~~]
11 licensee in writing of the revisions or amendments.

12 I. A violation of any provision of the Engineering
13 and Surveying Practice Act is a misdemeanor punishable upon
14 conviction by a fine of not more than five thousand dollars
15 (\$5,000) or by imprisonment of no more than one year, or both.

16 J. The attorney general or district attorney of
17 the proper district or special prosecutor retained by the
18 board shall prosecute violations of the Engineering and
19 Surveying Practice Act by a [~~nonregistrant~~] nonlicensee.

20 K. The practice of surveying in violation of the
21 provisions of the Engineering and Surveying Practice Act shall
22 be deemed a nuisance and may be restrained and abated by
23 injunction without bond in an action brought in the name of
24 the state by the district attorney or on behalf of the board
25 by the attorney general or the special prosecutor retained by

underscored material = new
[bracketed material] = delete

1 the board. Action shall be brought in the county in which the
2 violation occurs. "

3 Section 27. Section 61-23-27.13 NMSA 1978 (being Laws
4 1993, Chapter 218, Section 34) is amended to read:

5 "61-23-27.13. SURVEYING--PUBLIC WORK.--It is unlawful
6 for the state or any of its political subdivisions to engage
7 in the construction of any public work involving surveying
8 unless the surveying is under the responsible charge of a
9 [~~registered~~] licensed professional surveyor. "

10 Section 28. Section 61-23-27.14 NMSA 1978 (being Laws
11 1993, Chapter 218, Section 35) is amended to read:

12 "61-23-27.14. SURVEYING--PUBLIC OFFICER-- [~~REGISTRATION~~]
13 LICENSURE REQUIRED.--No person except a [~~registered~~] licensed
14 professional surveyor shall be eligible to hold any
15 responsible office or position for the state or any political
16 subdivision of the state [~~which~~] that requires the performance
17 or responsible charge of surveying work. "

18 Section 29. Section 61-23-28 NMSA 1978 (being Laws 1987,
19 Chapter 336, Section 28) is amended to read:

20 "61-23-28. REFERENCE MARKS--REMOVAL OR OBLITERATION--
21 REPLACEMENT.--When it becomes necessary by reason of the
22 construction of public or private works to remove or
23 obliterate any triangulation station, benchmark, corner,
24 monument, stake, witness mark or other reference mark, it
25 shall be the duty of the person in charge of the work to cause

underscored material = new
[bracketed material] = delete

1 to be established by a [~~registered~~] licensed surveyor one or
2 more permanent reference marks, which shall be plainly marked
3 as witness corners or reference marks as near as practicable
4 to the original mark and to record a map, field notes or both
5 with the county clerk and county surveyor of the county
6 wherein located, showing clearly the position of the marks
7 established with reference to the position of the original
8 mark. The surveys or measurements made to connect the
9 reference marks with the original mark shall be of at least
10 the same order of precision as the original survey."

11 Section 30. Section 61-23-30 NMSA 1978 (being Laws 1987,
12 Chapter 336, Section 30) is amended to read:

13 "61-23-30. RIGHT OF ENTRY ON PUBLIC AND PRIVATE
14 PROPERTY--RESPONSIBILITY.--The engineers and surveyors of the
15 United States and [~~registered~~] licensed professional engineers
16 and surveyors of the state [~~of New Mexico~~] shall have the
17 right to enter upon the lands and waters of the state and of
18 private persons and of private and public corporations within
19 the state for the purpose of making surveys, inspections,
20 examinations and maps, subject to responsibility for actual
21 damage to crops or other property or for injuries resulting
22 from negligence or malice caused on account of that entry."

23 Section 31. Section 61-23-31 NMSA 1978 (being Laws 1987,
24 Chapter 336, Section 31, as amended) is amended to read:

25 "61-23-31. LICENSURE UNDER PRIOR LAWS.--Any person

underscored material = new
[bracketed material] = delete

1 holding a valid [~~registration~~] license as a professional
2 engineer, professional surveyor, professional engineer and
3 surveyor or certification as an engineer intern or surveyor
4 intern granted by the board [~~under~~] pursuant to any prior law
5 of New Mexico shall not be required to make a new application
6 or to submit to an examination, but shall be entitled to the
7 renewal of [~~such registration~~] licensure upon the terms and
8 conditions of the Engineering and Surveying Practice Act. "

9 Section 32. Section 61-23-32 NMSA 1978 (being Laws 1987,
10 Chapter 336, Section 32, as amended) is amended to read:

11 "61-23-32. TERMINATION OF AGENCY LIFE--DELAYED REPEAL. --
12 The state board of [~~registration~~] licensure for professional
13 engineers and surveyors is terminated on July 1, [1999] 2005
14 pursuant to the Sunset Act. The board shall continue to
15 operate according to the provisions of the Engineering and
16 Surveying Practice Act until July 1, [2000] 2006. Effective
17 July 1, [2000] 2006, the Engineering and Surveying Practice
18 Act is repealed. "

19 Section 33. A new section of the Engineering and
20 Surveying Practice Act is enacted to read:

21 "[NEW MATERIAL] SURVEYING--RECORD OF SURVEY. --

22 A. For those surveys that do not create a division
23 of land but only show existing tracts of record, except in the
24 instance of remonumentation as specified in the board's
25 minimum standards for boundary surveys, within sixty calendar

underscored material = new
[bracketed material] = delete

1 days of the completion of the survey, a professional surveyor
2 shall file and the county clerk shall accept and record a plat
3 of survey entitled "boundary survey plat" that shall:

4 (1) contain a printed certification of the
5 professional surveyor stating that "this is a boundary survey
6 plat of an existing tract", or existing tracts, if
7 appropriate, and that "it is not a land division or
8 subdivision as defined in the New Mexico Subdivision Act";

9 (2) identify all tracts by the uniform parcel
10 code designation or other designation established by the
11 county assessor, if applicable;

12 (3) meet the minimum standards for surveying
13 in New Mexico as established by the board;

14 (4) not exceed a size of eighteen inches by
15 twenty-four inches and be at least eight and one-half inches
16 by eleven inches; and

17 (5) consist of two black-line copies, one of
18 which the county clerk's office may require to be a mylar
19 copy, made by the surveyor from a mylar original, which shall
20 be maintained in the professional surveyor's files. One of
21 the two black-line copies shall be filed and recorded by the
22 county clerk and the other, containing recording information,
23 shall be delivered by the county clerk to the county assessor.

24 B. Fees for recording a boundary survey plat shall
25 be in conformance with Sections 14-8-12 through 14-8-16 NMSA

underscored material = new
[bracketed material] = delete

1 1978. The county clerk shall keep a proper index of boundary
2 survey plats by the name of the subdivision, if applicable;
3 owner; and by section, township and range or projected
4 section, township and range if the subject tract is in a land
5 grant. The records shall be kept in conformance with Sections
6 14-8-12 through 14-8-16 NMSA 1978.

7 C. For those surveys that do create a division of
8 land, the survey shall be completed in conformity with the
9 board's minimum standards and in conformity with the New
10 Mexico Subdivision Act and any applicable local subdivision
11 ordinances. Filing procedures shall be prescribed in the
12 board's minimum standards. The record of survey required to
13 be filed and recorded pursuant to this subsection shall be
14 filed within sixty calendar days after completion of the
15 survey or approval by the governing authority. The county
16 clerk shall keep a proper index of land division plats by the
17 name of the subdivision; by section, township and range or
18 projected section, township and range if the subject tract is
19 in a land grant; and by the number assigned to the land
20 division plat by the local planning department, if applicable.
21 The records shall be kept in conformance with Sections 14-8-12
22 through 14-8-16 NMSA 1978. "

23 Section 34. REPEAL. -- Sections 61-23-27.1, 61-23-27.2,
24 61-23-27.10 and 61-23-28.1 NMSA 1978 (being Laws 1993, Chapter
25 218, Sections 22, 23, 31 and 36, as amended) are repealed.

. 127038. 2

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 February 25, 1999

7
8
9
10
11 Mr. Speaker:

12
13 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
14 been referred

15 HOUSE BILL 559

16
17 has had it under consideration and reports same with
18 recommendation that it DO PASS, amended as follows:

19
20 1. On page 4, line 5, strike "engineering surveys that
21 include".

22
23 2. On page 4, strike lines 6, 7 and 8 in their
24 entirety.

25 3. On page 4, line 9, strike "easements and surveys of

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HBIC/HB 559

Page 53

4 public lands" and insert in lieu thereof "surveying work as
5 defined in this section and the use of photogrammetric
6 methods to derive topographic and other data".

7
8 4. On page 7, strike the bracket and line through
9 lines 8 through 12 and line 13 up to the period.

10
11 5. On page 7, line 13, after the period insert:

12 "Engineering surveys may be performed by a licensed
13 professional engineer on a project for which he is providing
14 engineering design services. Engineering surveys include
15 topographic surveying activities required to support the
16 sound conception, planning, design, construction,
17 maintenance and operation of said projects but exclude the
18 surveying of real property for establishment of land
19 boundaries, rights of way, easements and the dependent or
20 independent surveys or resurveys of the public land
21 system." .

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/HB 559

Page 54

6. On page 41, between lines 15 and 16, insert the following new Section 26 to read as follows:

"Section 26. Section 61-23-27.10 NMSA 1978 (being Laws 1993, Chapter 218, Section 31) is amended to read:

"61-23-27.10. SURVEYING EXEMPTIONS.--

~~[A. Officers and employees of the government of the United States engaged within New Mexico in the practice of surveying for the government, provided that they offer no surveying services to the public and further provided that services do not affect the public, shall be exempt from the Engineering and Surveying Practice Act.~~

~~B. A surveyor employed by]~~ An employee of a firm,

. 127038. 2

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/HB 559

Page 55

association or corporation who performs only the surveying services involved in the operation of the employer's business shall be exempt from the provisions of the Engineering and Surveying Practice Act, provided that neither the employee nor the employer offers surveying services to the public, and provided that the surveying services performed do not include any determination, description, portraying, measuring or monumentation of the boundaries of a tract of land.".

7. Renumber the succeeding sections accordingly.

8. On page 50, line 23, after "61-23-27.2" strike the comma, on line 24, strike "61-23-27.10" and on line 25, strike ", 31".,

and thence referred to the JUDICIARY COMMITTEE.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/HB 559

Page 56

Respectfully submitted,

Debbie A. Rodella, Chairwoman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Sanchez

Absent: Hobbs

128256.1ms

128757.2

J:\99BillSWP\H0559

. 127038.2

underscored material = new
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999
3
4

5 March 9, 1999
6

7 Mr. Speaker:
8

9 Your JUDICIARY COMMITTEE, to whom has been referred
10

11 HOUSE BILL 559, as amended
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:

15 1. Strike Business and Industry Committee amendment 2
16 and 3 in their entirety.

17 2. On page 4, strike lines 6, 7, 8 and 9 in their
18 entirety.

19 3. On page 4, line 10, strike "easements and surveys of
20 public lands" and insert in lieu thereof "surveying work as
21 defined in this section and the use of photogrammetric methods
22 to derive topographical and other data".
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HJC/HB 559 aa

Page 58

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Luna, Godbey, Martinez, Thompson

Absent: None

J: \99BillSWP\H0559

. 127038. 2

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION

March 12, 1999

HOUSE FLOOR AMENDMENT number _____ to HOUSE BILL 559, as amended

Amendment sponsored by Representative Larry A. Larranaga

1. Strike House Judiciary Committee Amendments 2 and 3.

2. On page 4, strike lines 6 through 9 and on line 10, strike "easements and surveys of public lands" and insert in lieu thereof "the use of photogrammetric methods to derive topographical and other data".

underscored material = new
[bracketed material] = delete

129039. 2

FORTY- FOURTH LEGISLATURE
FIRST SESSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HF1/ HB 559

Page 60

Larry A. Larranaga

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

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

FORTY-FOURTH LEGISLATURE
FIRST SESSION

HF1/HB 559

Page 61

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

March 15, 1999

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
has been referred

HOUSE BILL 559, as amended

has had it under consideration and reports same with recommendation
that it DO PASS.

Respectfully submitted,

Roman M. Maes, Chairman

Adopted _____ Not Adopted _____

underscored material = new
[bracketed material] = delete

FORTY-FOURTH LEGISLATURE
FIRST SESSION

1 HF1/HB 559

Page 62

2

(Chief Clerk)

(Chief Clerk)

3

4

5

Date _____

6

7

8

The roll call vote was 7 For 0 Against

9

Yes: 7

10

No: 0

11

Excused: Aragon, Fidel, Robinson

12

Absent: None

13

14

H0559CT1

15

16

17

18

19

20

21

22

23

24

25

underscored material = new
[bracketed material] = delete