

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 286

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

AN ACT

RELATING TO LAW ENFORCEMENT; CHANGING THE ENTITY RESPONSIBLE
FOR POLICE OFFICER AND TELECOMMUNICATOR CERTIFICATION
SUSPENSIONS AND REVOCATIONS FROM THE NEW MEXICO LAW ENFORCEMENT
ACADEMY BOARD TO THE REGULATION AND LICENSING DEPARTMENT;
PROVIDING FOR APPLICATION OF PROVISIONS OF THE UNIFORM
LICENSING ACT TO THE ISSUANCE, SUSPENSION OR REVOCATION OF
POLICE OFFICER OR TELECOMMUNICATOR CERTIFICATION; CHANGING THE
APPEAL PROCESS FOR DISCIPLINARY ACTIONS AGAINST NEW MEXICO
STATE POLICE OFFICERS OR THE NEW MEXICO LAW ENFORCEMENT ACADEMY
BOARD DIRECTOR; INCREASING THE LAW ENFORCEMENT PROTECTION FUND
REQUIRED MINIMUM BALANCE; ELIMINATING THE PUBLIC SAFETY
ADVISORY COMMISSION AND THE PEACE OFFICER'S EMPLOYER-EMPLOYEE
RELATIONS ACT; REPEALING SECTION 9-19-11 NMSA 1978 (BEING LAWS
1987, CHAPTER 254, SECTION 12, AS AMENDED) AND SECTIONS 29-14-1
THROUGH 29-14-11 NMSA 1978 (BEING LAWS 1991, CHAPTER 117,

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1 SECTIONS 1 THROUGH 11).

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

4 SECTION 1. Section 29-2-1.1 NMSA 1978 (being Laws 1987,
5 Chapter 254, Section 18, as amended) is amended to read:

6 "29-2-1.1. DEFINITIONS.--As used in Chapter 29 NMSA 1978:

7 A. "chief" or "chief of the state police" means the
8 director of the New Mexico state police division of the
9 department;

10 [~~B.~~] "commission" means the public safety advisory
11 commission;

12 [~~G.~~] B. "department" means the department of public
13 safety;

14 [~~D.~~] C. "member of the New Mexico state police"
15 means a commissioned officer of the New Mexico state police,
16 including an officer who is certified and commissioned as of
17 June 30, 2015 in the former motor transportation division or
18 the former special investigations division;

19 [~~E.~~] D. "New Mexico law enforcement academy" or
20 "academy" means a division of the department established
21 pursuant to the Law Enforcement Training Act;

22 [~~F.~~] E. "New Mexico state police" means the New
23 Mexico state police division of the department; and

24 [~~G.~~] F. "secretary" means the secretary of public
25 safety."

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1 SECTION 2. Section 29-2-11 NMSA 1978 (being Laws 1941,
2 Chapter 147, Section 11, as amended by Laws 2006, Chapter 11,
3 Section 1 and by Laws 2006, Chapter 12, Section 1) is amended
4 to read:

5 "29-2-11. DISCIPLINARY PROCEEDINGS--APPEAL.--

6 A. A New Mexico state police officer holding a
7 permanent commission shall not be removed from office, demoted
8 or suspended except for incompetence, neglect of duty,
9 violation of a published rule of conduct, malfeasance in office
10 or conduct unbecoming an officer except as provided in this
11 section. A probationary officer not holding a permanent
12 commission may be removed from office, demoted or suspended in
13 accordance with New Mexico state police rules.

14 B. The secretary may suspend an officer for
15 disciplinary reasons for not more than thirty days in
16 accordance with New Mexico state police rules without further
17 review or appeal.

18 C. In the event an officer is removed from office,
19 demoted or suspended for a period of more than thirty days, the
20 secretary shall provide written notification of the grounds
21 supporting the action to the officer. The officer may appeal
22 the secretary's action to the [~~commission within thirty days of~~
23 ~~the date of receipt of the secretary's written notification.~~
24 ~~The appeal process shall be public and conducted in accordance~~
25 ~~with New Mexico state police rules.~~

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1 ~~D. In the event the commission finds that there is~~
2 ~~just cause for the removal, demotion or suspension of the~~
3 ~~officer for a period in excess of thirty days, the officer may~~
4 ~~appeal the decision of the commission to the] district court~~
5 pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

6 SECTION 3. Section 29-7-4 NMSA 1978 (being Laws 1969,
7 Chapter 264, Section 6, as amended) is amended to read:

8 "29-7-4. POWERS AND DUTIES OF BOARD.--The board shall:

9 A. approve or disapprove the appointment of the
10 director by the secretary;

11 B. develop and implement a planned program of:

12 (1) basic law enforcement training and
13 in-service law enforcement training, a portion of which may be
14 conducted on a regional basis; and

15 (2) basic telecommunicator training and
16 in-service telecommunicator training, as provided in the Public
17 Safety Telecommunicator Training Act, a portion of which may be
18 conducted on a regional basis;

19 C. prescribe qualifications for instructors and
20 prescribe courses of instruction for:

21 (1) basic law enforcement training and
22 in-service law enforcement training; and

23 (2) basic telecommunicator training and
24 in-service telecommunicator training, as provided in the Public
25 Safety Telecommunicator Training Act;

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1 D. report annually to the governor;

2 E. in its discretion, accept donations,
3 contributions, grants or gifts from whatever source for the
4 benefit of the academy, which donations, contributions, grants
5 or gifts are appropriated for the use of the academy;

6 F. adopt, publish and file, in accordance with the
7 provisions of the State Rules Act, all regulations and rules
8 concerning the operation of the academy and the implementation
9 and enforcement of the provisions of the Law Enforcement
10 Training Act and the Public Safety Telecommunicator Training
11 Act;

12 G. issue, grant, deny or renew [~~suspend or revoke~~]
13 a:

14 (1) peace officer's certification for any
15 cause set forth in the provisions of the Law Enforcement
16 Training Act; and

17 (2) telecommunicator's certification for any
18 just cause set forth in the Public Safety Telecommunicator
19 Training Act;

20 H. administer oaths, subpoena persons and take
21 testimony on any matter within the board's jurisdiction; and

22 I. perform all other acts appropriate to the
23 development and operation of the academy."

24 SECTION 4. Section 29-7-5.1 NMSA 1978 (being Laws 1979,
25 Chapter 202, Section 45, as amended) is amended to read:

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1 "29-7-5.1. REMOVAL OF DIRECTOR.--The director may be
2 removed by the board in accordance with the procedures provided
3 in Section 29-2-11 NMSA 1978 for removal of members of the New
4 Mexico state police holding permanent commissions. [~~In the~~
5 ~~case of removal proceedings for the director under that~~
6 ~~section, "commission", as used in Subsections C and D of~~
7 ~~Section 29-2-11 NMSA 1978, shall be construed to mean the New~~
8 ~~Mexico law enforcement academy board.] The director may appeal
9 the board's action to the district court pursuant to the
10 provisions of Section 39-3-1.1 NMSA 1978."~~

11 SECTION 5. Section 29-7-7.1 NMSA 1978 (being Laws 1981,
12 Chapter 114, Section 7, as amended) is amended to read:

13 "29-7-7.1. IN-SERVICE LAW ENFORCEMENT TRAINING--
14 REQUIREMENTS--ELIGIBILITY.--

15 A. In-service law enforcement training consists of
16 at least forty hours of academic instruction, approved by the
17 board, for each certified police officer during each twenty-
18 four month period of employment or service with a political
19 subdivision. The first training course shall commence no later
20 than twelve months after graduation from an approved basic law
21 enforcement training program.

22 B. All certified police officers who are eligible
23 for in-service training shall, during each twenty-four month
24 period of employment, complete a minimum of forty hours of in-
25 service law enforcement training in courses approved by the

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1 board. All certified police officers shall provide proof of
 2 completing in-service law enforcement training requirements to
 3 the director no later than March 1 of the year in which the
 4 requirements must be met. The director shall provide annual
 5 notice to all certified police officers regarding in-service
 6 law enforcement training requirements. Failure to complete in-
 7 service law enforcement training requirements may be grounds
 8 for suspension of a certified police officer's certification by
 9 the regulation and licensing department. A police officer's
 10 certification may be reinstated by the board, with approval by
 11 the regulation and licensing department, when the police
 12 officer presents the board with evidence of satisfying in-
 13 service law enforcement training requirements."

14 SECTION 6. Section 29-7-13 NMSA 1978 (being Laws 1993,
 15 Chapter 255, Section 10) is amended to read:

16 "29-7-13. REFUSAL, SUSPENSION OR REVOCATION OF
 17 CERTIFICATION.--

18 A. After consultation with the employing agency,
 19 the board may refuse to issue or renew or the regulation and
 20 licensing department may suspend or revoke a police officer's
 21 certification when the board or the regulation and licensing
 22 department determines that a person has:

23 (1) failed to satisfy the qualifications for
 24 certification, set forth in Section 29-7-6 NMSA 1978;

25 (2) committed acts that constitute dishonesty

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1 or fraud;

2 (3) been convicted of, pled guilty to or
3 entered a plea of no contest to:

4 (a) any felony charge; or

5 (b) any violation of federal or state
6 law or a local ordinance relating to aggravated assault, theft,
7 driving while under the influence of intoxicating liquor or
8 drugs, controlled substances or any law or ordinance involving
9 moral turpitude; or

10 (4) knowingly made any false statement in
11 [~~his~~] the application for certification.

12 ~~[B. The board shall develop, adopt and promulgate~~
13 ~~administrative procedures for suspension or revocation of a~~
14 ~~police officer's certification that include notice and an~~
15 ~~opportunity for the affected police officer to be heard, as~~
16 ~~well as procedures for review of the board's decision.]~~

17 B. Except as provided in Section 29-7-15 NMSA 1978,
18 the Uniform Licensing Act applies to the board when issuing or
19 renewing or refusing to issue or renew a police officer
20 certification or to the regulation and licensing department
21 when contemplating suspension or revocation of a police officer
22 certification."

23 SECTION 7. Section 29-7-15 NMSA 1978 (being Laws 2020
24 (1st S.S.), Chapter 7, Section 2) is amended to read:

25 "29-7-15. REVOKE POLICE OFFICER CERTIFICATION AFTER

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1 CONVICTION OR MAKING CERTAIN PLEAS.--Notwithstanding any other
2 provision of law, if any police officer is convicted of or
3 pleads guilty or nolo contendere to a crime involving the
4 unlawful use or threatened use of physical force or a crime
5 involving the failure to intervene in the use of unlawful
6 force, the ~~[board]~~ regulation and licensing department shall
7 permanently revoke the police officer's certification. The
8 board shall not, under any circumstance, reinstate the police
9 officer's certification or grant new certification to the
10 police officer unless the police officer is exonerated by a
11 court or pardoned by the governor."

12 SECTION 8. Section 29-7C-9 NMSA 1978 (being Laws 2003,
13 Chapter 320, Section 11) is amended to read:

14 "29-7C-9. REFUSAL, SUSPENSION OR REVOCATION OF
15 CERTIFICATION.--

16 A. The board shall refuse to issue or the
17 regulation and licensing department shall suspend or revoke a
18 telecommunicator's certification, after consultation with ~~[his]~~
19 the telecommunicator's employing safety agency, if the board or
20 regulation and licensing department determines that a person
21 has:

22 (1) failed to satisfy the qualifications for
23 certification set forth in Section 29-7A-3 NMSA 1978;

24 (2) committed acts that constitute dishonesty
25 or fraud;

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1 (3) been convicted of, pled guilty to or
2 entered a plea of nolo contendere to a:

- 3 (a) felony charge; or
4 (b) violation of a federal or state law,
5 a local ordinance relating to aggravated assault or theft or a
6 law involving moral turpitude; or

7 (4) knowingly made a false statement on [~~his~~]
8 the application.

9 [~~B. The board shall develop, adopt and promulgate
10 administrative procedures for suspension or revocation of a
11 telecommunicator's certification that include:~~

12 (1) ~~notice and opportunity for the affected
13 telecommunicator to be heard; and~~

14 (2) ~~procedures for review of the board's
15 decision.]~~

16 B. The Uniform Licensing Act applies to the board
17 when issuing or refusing to issue a telecommunicator's
18 certification or to the regulation and licensing department
19 when contemplating suspension or revocation of a
20 telecommunicator's certification."

21 SECTION 9. That version of Section 29-13-4 NMSA 1978
22 (being Laws 1993, Chapter 179, Section 6, as amended) that is
23 to become effective July 1, 2022 is amended to read:

24 "29-13-4. DETERMINATION OF NEEDS AND RATE OF
25 DISTRIBUTION.--

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1 A. Annually on or before April 15, the division
2 shall consider and determine the relative needs as requested by
3 tribal, municipal, school district and university police
4 departments, county sheriff's departments, the department of
5 public safety and the academy for money in the fund in the
6 succeeding fiscal year pursuant to the provisions of
7 Subsections C and E of this section.

8 B. As necessary during the year, the division shall
9 transfer an amount from the fund to the peace officers', New
10 Mexico mounted patrol members' and reserve police officers'
11 survivors fund that enables the balance of the peace officers',
12 New Mexico mounted patrol members' and reserve police officers'
13 survivors fund to be maintained at a minimum balance of [~~three~~
14 ~~hundred fifty thousand dollars (\$350,000)~~] four hundred
15 thousand dollars (\$400,000).

16 C. The division shall determine the rate of
17 distribution of money in the fund as follows:

18 (1) all municipal police, school district
19 police and county sheriff's departments shall be entitled to a
20 rate of distribution of forty-five thousand dollars (\$45,000);

21 (2) university police departments shall be
22 entitled to a rate of distribution of forty-five thousand
23 dollars (\$45,000);

24 (3) the academy shall be entitled to a rate of
25 distribution of twenty-four thousand five hundred dollars

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1 (\$24,500) to carry out the purposes of Section 29-7-7.7 NMSA
2 1978;

3 (4) tribal police departments shall be
4 entitled, unless allocations are adjusted pursuant to the
5 provisions of Subsection D of this section, to one thousand
6 dollars (\$1,000) for each commissioned peace officer in the
7 tribe. To be counted as a commissioned peace officer for the
8 purposes of this paragraph, a commissioned peace officer shall
9 have been assigned to duty and have worked in New Mexico for no
10 fewer than two hundred days in the calendar year immediately
11 prior to the date of payment. Payments shall be made for only
12 those divisions of the tribal police departments that perform
13 services in New Mexico. A tribal police department shall not
14 be eligible for any disbursement under the fund if commissioned
15 peace officers cite non-Indians into the tribal court for civil
16 or criminal citations;

17 (5) municipal, school district and university
18 police and county sheriff's departments shall be entitled,
19 unless allocations are adjusted pursuant to the provisions of
20 Subsection D of this section, to one thousand dollars (\$1,000)
21 for each police officer or sheriff's deputy employed full time
22 by that department who has been certified by the academy, or by
23 a regional law enforcement training facility in the state
24 certified by the director of the academy, as a police officer
25 or has been authorized to act as a New Mexico peace officer

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1 pursuant to the provisions of Section 29-1-11 NMSA 1978; and

2 (6) municipal police, sheriff's and school
3 district police departments that assign officers as school
4 resource officers shall be entitled to one thousand dollars
5 (\$1,000) for each assigned school resource officer's training
6 pursuant to Section [~~1 of this 2020 act~~] 29-7-14 NMSA 1978.

7 D. After distributions are determined in accordance
8 with Subsection A, Subsection B and Paragraphs (1), (2), (3)
9 and (6) of Subsection C of this section, if the balance in the
10 fund is insufficient to permit the total allocations provided
11 by Paragraphs (4) and (5) of Subsection C of this section, the
12 division shall reduce that allocation to the maximum amount
13 permitted by available money.

14 E. After all distributions have been made in
15 accordance with Subsections A through D of this section, and if
16 the balance in the fund is sufficient, the department of public
17 safety shall be entitled to a rate of distribution of not more
18 than two million dollars (\$2,000,000)."

19 **SECTION 10.** That version of Section 29-13-7 NMSA 1978
20 (being Laws 1983, Chapter 289, Section 7, as amended by Laws
21 2020, Chapter 54, Section 1 and by Laws 2020, Chapter 67,
22 Section 6) that is to become effective July 1, 2022 is amended
23 to read:

24 "29-13-7. EXPENDITURE LIMITATION--CONTROL.--

25 A. Except as provided for the academy and the

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1 department of public safety in Subsections B and C of this
2 section, amounts distributed from the fund shall be expended
3 only for the following:

4 (1) the repair and purchase of law enforcement
5 apparatus and equipment, including the financing and
6 refinancing thereof, that meet minimum nationally recognized
7 standards;

8 (2) the purchase of law enforcement equipment,
9 including protective vests, for police dogs;

10 (3) expenses associated with advanced law
11 enforcement planning and training;

12 (4) maintaining the balance of the peace
13 officers', New Mexico mounted patrol members' and reserve
14 police officers' survivors fund at a minimum amount of [~~three~~
15 ~~hundred fifty thousand dollars (\$350,000)~~] four hundred
16 thousand dollars (\$400,000);

17 (5) complying with match or contribution
18 requirements for the receipt of federal funds relating to
19 criminal justice programs;

20 (6) no more than fifty percent of the
21 replacement salaries of municipal and county law enforcement
22 personnel of municipalities or counties participating in basic
23 law enforcement training;

24 (7) a law enforcement officer retention
25 payment in the amount of seven thousand five hundred dollars

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1 (\$7,500); provided that:

2 (a) the distribution is requested by a
3 municipality or county law enforcement agency that on January
4 1, 2018 had a staffing vacancy rate of at least ten percent to
5 retain a law enforcement officer who is certified in accordance
6 with the Law Enforcement Training Act and has at least twenty
7 years of actual service credit earned under a municipal police
8 member coverage plan as determined by the public employees
9 retirement association;

10 (b) the municipality or county law
11 enforcement agency provides seven thousand five hundred dollars
12 (\$7,500) in matching funds to the law enforcement officer; and

13 (c) the distribution and the matching
14 funds paid to a law enforcement officer shall not constitute
15 the officer's base salary or wages and shall not be considered
16 to be salary or otherwise be used to determine a pension for
17 the purposes of the Public Employees Retirement Act; and

18 (8) recruiting, providing bonuses for and
19 training law enforcement officers engaged in community-oriented
20 policing.

21 B. For the academy, amounts distributed from the
22 fund shall be expended only for providing tourniquet and trauma
23 kits and training on the use of tourniquet and trauma kits
24 pursuant to Section 29-7-7.7 NMSA 1978.

25 C. The amount distributed to the department of

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1 public safety:

2 (1) shall:

3 (a) be used only to offset overtime-pay-
4 related expenses incurred directly by the department of public
5 safety from the special deployment of state police officers or
6 other emergency assistance to counties or municipalities in
7 response to critical circumstances as authorized by the
8 governor; and

9 (b) not be expended to hire new
10 personnel; and

11 (2) may be expended for costs, including
12 travel, fuel, overtime, per diem and ammunition.

13 D. Amounts distributed from the fund shall be
14 expended only pursuant to approved budgets and upon duly
15 executed vouchers approved as required by law."

16 SECTION 11. Section 29-21-3 NMSA 1978 (being Laws 2009,
17 Chapter 177, Section 3) is amended to read:

18 "29-21-3. POLICIES AND PROCEDURES--REQUIRED.--

19 A. A law enforcement agency shall:

20 (1) maintain written policies and procedures
21 designed to eliminate practices by its law enforcement officers
22 that violate the provisions of Section [~~2 of the Prohibition of~~
23 ~~Profiling Practices Act~~] 29-21-2 NMSA 1978; and

24 (2) provide training to its law enforcement
25 officers, during orientation and at least once every two years,

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1 that the law enforcement agency determines will assist its law
2 enforcement officers in adhering to the applicable provisions
3 of the Prohibition of Profiling Practices Act and to the law
4 enforcement agency's policies and procedures.

5 B. As part of a law enforcement agency's
6 administrative complaint procedures, the law enforcement agency
7 shall, at a minimum:

8 (1) investigate a complaint alleging its law
9 enforcement officer violated the provisions of Section [~~2 of~~
10 ~~the Prohibition of Profiling Practices Act~~] 29-21-2 NMSA 1978;

11 (2) take appropriate measures to discipline a
12 law enforcement officer, including facilitating mediation or
13 other restorative justice measures, when it is determined that
14 the law enforcement officer violated the provisions of Section
15 [~~2 of the Prohibition of Profiling Practices Act~~] 29-21-2 NMSA
16 1978;

17 (3) provide appropriate forms for submitting
18 the complaint against its law enforcement officer;

19 (4) publish the policies and procedures
20 designed to eliminate practices that violate the provisions of
21 Section [~~2 of the Prohibition of Profiling Practices Act~~]
22 29-21-2 NMSA 1978; and

23 (5) submit a redacted copy of the complaint
24 and the disposition to the attorney general, which shall
25 disclose the nature and disposition of the complaint but shall

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1 not disclose personal identifying information of a law
2 enforcement officer or complainant.

3 C. A law enforcement agency shall establish a time
4 frame within which a complaint alleging a violation of the
5 provisions of Section [~~2 of the Prohibition of Profiling~~
6 ~~Practices Act~~] 29-21-2 NMSA 1978 may be made; provided that in
7 no event shall the time frame be less than ninety days or
8 exceed one hundred eighty days after the commission of the
9 alleged violation of the provisions of Section [~~2 of the~~
10 ~~Prohibition of Profiling Practices Act~~] 29-21-2 NMSA 1978. A
11 law enforcement agency shall allow a complaint alleging a
12 violation of the provisions of Section [~~2 of the Prohibition of~~
13 ~~Profiling Practices Act~~] 29-21-2 NMSA 1978 by its law
14 enforcement officer to be made:

15 (1) in person or in writing sent by mail,
16 facsimile or electronic mail and signed by the complainant; or

17 (2) by telephone, anonymously or by a third
18 party; provided that the law enforcement agency shall determine
19 the complaint to be valid before taking appropriate measures
20 pursuant to Paragraph (2) of Subsection B of this section [~~and~~
21 ~~shall comply with the provisions of Section 29-14-4 NMSA~~
22 ~~1978~~]."

23 SECTION 12. Section 61-1-2 NMSA 1978 (being Laws 1957,
24 Chapter 247, Section 2, as amended) is amended to read:

25 "61-1-2. DEFINITIONS.--As used in the Uniform Licensing

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1 Act:

2 A. "board" means:

3 (1) the construction industries commission,
4 the construction industries division and the electrical bureau,
5 mechanical bureau and general construction bureau of the
6 construction industries division of the regulation and
7 licensing department;

8 (2) the manufactured housing committee and
9 manufactured housing division of the regulation and licensing
10 department;

11 (3) a board, commission or agency that
12 administers a profession or occupation licensed pursuant to
13 Chapter 61 NMSA 1978; ~~and~~

14 (4) the New Mexico law enforcement academy
15 board when administering police officer certification or
16 telecommunicator certification;

17 (5) the regulation and licensing department
18 when administering police officer certification or a
19 telecommunicator certification; and

20 (6) any other state agency to which the
21 Uniform Licensing Act is applied by law;

22 B. "applicant" means a person who has applied for a
23 license;

24 C. "license" means a certificate, permit or other
25 authorization to engage in each of the professions and

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1 occupations regulated by the boards enumerated in Subsection A
2 of this section;

3 D. "revoke a license" means to prohibit the conduct
4 authorized by the license; and

5 E. "suspend a license" means to prohibit, for a
6 stated period of time, the conduct authorized by the license.
7 "Suspend a license" also means to allow, for a stated period of
8 time, the conduct authorized by the license, subject to
9 conditions that are reasonably related to the grounds for
10 suspension [~~and~~

11 ~~F. "emergency" includes any man-made or natural~~
12 ~~disaster causing or threatening widespread physical or economic~~
13 ~~harm that is beyond local control and requires the resources of~~
14 ~~the state]."~~

15 SECTION 13. REPEAL.--

16 A. Section 9-19-11 NMSA 1978 (being Laws 1987,
17 Chapter 254, Section 12, as amended) is repealed.

18 B. Sections 29-14-1 through 29-14-11 NMSA 1978
19 (being Laws 1991, Chapter 117, Sections 1 through 11) are
20 repealed.