

1 SENATE BILL 437

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Linda M. Lopez and Gerald Ortiz y Pino

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10 AN ACT

11 RELATING TO EXECUTIVE REORGANIZATION; ENACTING THE VOCATIONAL
12 REHABILITATION ACT; CREATING THE VOCATIONAL REHABILITATION
13 COMMISSION; ELIMINATING THE VOCATIONAL REHABILITATION DIVISION
14 OF THE PUBLIC EDUCATION DEPARTMENT; CREATING THE VOCATIONAL
15 REHABILITATION OFFICE; PROVIDING POWERS AND DUTIES; PROVIDING
16 FOR THE TRANSFER OF FUNCTIONS, PERSONNEL, MONEY,
17 APPROPRIATIONS, RECORDS AND OTHER PROPERTY.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
21 through 12 of this act may be cited as the "Vocational
22 Rehabilitation Act".

23 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
24 Vocational Rehabilitation Act:

25 A. "commission" means the vocational rehabilitation

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1 commission;

2 B. "director" means the director of the vocational
3 rehabilitation office;

4 C. "federal aid funds" means funds or grants
5 received by the state under any federal aid for vocational
6 rehabilitation;

7 D. "office" means the vocational rehabilitation
8 office;

9 E. "person with a disability" means a person with a
10 physical or mental disability other than blindness that
11 constitutes a substantial handicap to employment but that is of
12 such a nature that vocational rehabilitation may be reasonably
13 expected to enable the person to engage in a remunerative
14 occupation; and

15 F. "vocational rehabilitation" means services or
16 training necessary to enable a person with a disability to
17 engage in a remunerative occupation. "Vocational
18 rehabilitation" may provide medical or vocational diagnosis,
19 vocational guidance, counseling and placement, rehabilitation
20 training, physical restoration, transportation, occupational
21 licenses, customary occupational tools or equipment,
22 maintenance and training material and equipment.

23 SECTION 3. [NEW MATERIAL] VOCATIONAL REHABILITATION
24 COMMISSION CREATED.--

25 A. The "vocational rehabilitation commission" is
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1 created. The commission consists of six members appointed by
2 the governor:

3 (1) two members shall be licensed health care
4 providers of disabilities treatment;

5 (2) two members shall be recipients of
6 vocational rehabilitation services;

7 (3) one member shall be the director of the
8 medical assistance division of the human services department;
9 and

10 (4) one member shall be a person with
11 expertise in vocational education.

12 B. Initially, two members shall be appointed for a
13 two-year term by July 1, 2023. Three members shall be
14 appointed for a three-year term and one member appointed for a
15 four-year term. Thereafter, appointments shall be for four-
16 year terms.

17 C. A majority of the members of the commission
18 constitutes a quorum for the transaction of business. The
19 commission shall elect a chair from its membership.

20 D. Public members of the commission are entitled to
21 receive per diem and mileage as provided in the Per Diem and
22 Mileage Act and shall receive no other compensation, perquisite
23 or allowance.

24 SECTION 4. [NEW MATERIAL] VOCATIONAL REHABILITATION
25 COMMISSION--POWERS AND DUTIES.--

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A. The commission may:

- (1) establish policies for state programs relating to vocational rehabilitation, unless otherwise provided by state law;
- (2) cooperate and make agreements with public or private agencies to establish or maintain a vocational rehabilitation program;
- (3) enter into reciprocal agreements with other states to provide vocational rehabilitation; and
- (4) accept gifts or grants to be used for vocational rehabilitation.

B. The commission shall:

- (1) create a state plan for federal aid funds relating to vocational rehabilitation;
- (2) establish standards to which agencies shall conform in receiving federal aid funds;
- (3) enter into an agreement with the appropriate federal agency to procure for the state the benefits of federal law regarding vocational rehabilitation;
- (4) collaborate with the federal social security administration to provide disability determination services pursuant to federal law; and
- (5) determine eligibility for state disability services pursuant to federal law, the Vocational Rehabilitation Act and rules promulgated under that act.

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1 SECTION 5. [NEW MATERIAL] VOCATIONAL REHABILITATION

2 OFFICE--POWERS AND DUTIES.--

3 A. The "vocational rehabilitation office" is
4 created. The commission shall appoint a director, who shall be
5 the administrative officer of the commission. The director
6 shall be appointed without reference to party affiliation and
7 solely based on the grounds of fitness to perform the duties of
8 the director's office. The director shall employ staff
9 necessary for the effective operation of the commission.

10 B. The office may:

11 (1) promulgate and enforce rules for the
12 administration of the Vocational Rehabilitation Act and state
13 laws relating to vocational rehabilitation;

14 (2) conduct research and compile statistics
15 relating to vocational rehabilitation;

16 (3) make surveys and studies in cooperation
17 with other agencies to determine the needs of the state in the
18 areas where federal aid funds are to be applied; and

19 (4) give technical advice and assistance to
20 any state or local agency in connection with that agency
21 obtaining federal aid funds.

22 C. The office shall:

23 (1) administer vocational rehabilitation
24 services;

25 (2) administer the state plan created by the

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1 commission;

2 (3) ensure that behavioral health services,
3 including mental health and substance abuse services, are
4 provided, contracted for or approved in compliance with the
5 requirements of Section 9-7-6.4 NMSA 1978;

6 (4) provide for reports to be made to federal
7 agencies, as required; and

8 (5) provide for reports to be made to the
9 commission from a person receiving federal aid funds.

10 SECTION 6. [NEW MATERIAL] DESIGNATED AGENCY FOR FEDERAL
11 FUNDS--CUSTODY OF FUNDS--BUDGETS--DISBURSEMENTS.--

12 A. The office is designated the sole state agency
13 to administer and receive federal aid funds.

14 B. The state treasurer shall be the custodian of
15 all federal aid funds.

16 C. All state funds, federal aid funds or grants to
17 the state relating to vocational rehabilitation shall be
18 budgeted and accounted for as provided by law. These funds or
19 grants shall be disbursed by warrants of the secretary of
20 finance and administration on vouchers issued by the director
21 or the director's authorized representative.

22 D. All federal aid funds received by the state to
23 be used for vocational rehabilitation programs may be expended
24 in any succeeding year from the year received.

25 SECTION 7. [NEW MATERIAL] VOCATIONAL REHABILITATION--

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1 ELIGIBILITY REQUIREMENTS.--Vocational rehabilitation shall be
2 provided to a person who:

3 A. is a resident of the state at the time of filing
4 an application for vocational rehabilitation; and

5 B. is eligible for a vocational rehabilitation
6 program; or

7 C. qualifies for eligibility under the terms of an
8 agreement that the state has with the federal government or
9 with another state.

10 SECTION 8. [NEW MATERIAL] HEARING.--A fair hearing shall
11 be provided for a person applying for or receiving vocational
12 rehabilitation who is aggrieved by an action or inaction of the
13 commission or office pursuant to the Administrative Procedures
14 Act.

15 SECTION 9. [NEW MATERIAL] THIRD-PARTY LIABILITY.--

16 A. The office shall make reasonable efforts to
17 ascertain any legal liability of third parties that are or may
18 be liable to pay all or part of the cost of rehabilitation
19 services of an applicant or client of vocational
20 rehabilitation.

21 B. When the office provides vocational
22 rehabilitation services to a qualified person, the office is
23 subrogated to any right of the individual against a third party
24 for recovery of costs incurred.

25 SECTION 10. [NEW MATERIAL] NONTRANSFERABLE OR ASSIGNABLE

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1 RIGHTS.--The rights of a person pursuant to state law relating
2 to vocational rehabilitation are not transferable or assignable
3 in law or in equity.

4 SECTION 11. [NEW MATERIAL] LIMITATIONS ON POLITICAL
5 ACTIVITIES.--

6 A. A vocational rehabilitation provider shall not:

7 (1) engage in administering a vocational
8 rehabilitation program or use the person's official authority
9 or influence to interfere with any public election or partisan
10 political campaign;

11 (2) take an active part in the management of a
12 political campaign or participate in any political activity
13 beyond the person's constitutional rights of voting and of free
14 speech; or

15 (3) be required to contribute or render
16 service, assistance, subscription, assessment or contribution
17 for any political purpose.

18 B. A person who violates the provisions of this
19 section shall be subject to discharge or suspension.

20 SECTION 12. [NEW MATERIAL] ADMISSION TO STATE EDUCATIONAL
21 INSTITUTIONS--EXEMPTION FROM CERTAIN FEES.--Upon written
22 request of the commission, all state educational institutions
23 shall accept for admission, without any charge for any fees
24 except tuition charges, a person with a disability meeting the
25 standards of the institution.

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1 SECTION 13. Section 9-24-4 NMSA 1978 (being Laws 2004,
2 Chapter 27, Section 4, as amended) is amended to read:

3 "9-24-4. DEPARTMENT CREATED.--

4 A. The "public education department" is created in
5 the executive branch. The department is a cabinet department
6 and includes the following divisions:

- 7 (1) the administrative services division;
- 8 (2) the assessment and accountability
9 division;
- 10 (3) the charter schools division;
- 11 (4) the educator quality division;
- 12 (5) the Indian education division;
- 13 (6) the information technology division;
- 14 (7) the instructional support and vocational
15 education division;
- 16 (8) the program support and student
17 transportation division;
- 18 (9) the quality assurance and systems
19 integration division; and
- 20 (10) the rural education division [~~and~~
- 21 ~~(11) the vocational rehabilitation division~~].

22 B. The secretary may organize the department and
23 divisions of the department and may transfer or merge functions
24 between divisions and bureaus in the interest of efficiency and
25 economy."

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1 SECTION 14. Section 13-1C-3 NMSA 1978 (being Laws 2005,
2 Chapter 334, Section 3) is amended to read:

3 "13-1C-3. DEFINITIONS.--As used in the State Use Act:

4 A. "central nonprofit agency" means a nonprofit
5 agency approved pursuant to rules of the council to facilitate
6 the equitable distribution of orders for the services of:

- 7 (1) qualified individuals; and
- 8 (2) community rehabilitation programs;

9 B. "community rehabilitation program" means a
10 nonprofit entity:

11 (1) that is organized under the laws of the
12 United States or this state, operated in the interest of
13 persons with disabilities and operated so that no part of the
14 income of which inures to the benefit of any shareholder or
15 other person;

16 (2) that complies with applicable occupational
17 health and safety standards as required by federal or state
18 law; and

19 (3) that, in the provision of services,
20 whether or not procured under the State Use Act, employs during
21 the state fiscal year at least seventy-five percent persons
22 with disabilities in direct labor for the provision of
23 services;

24 C. "council" means the New Mexico council for
25 purchasing from persons with disabilities;

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1 D. "direct labor" means all work directly relating
2 to the provision of services, but not work required for or
3 relating to supervision, administration or inspection;

4 E. "local public body" means a political
5 subdivision of the state and the political subdivision's
6 agencies, instrumentalities and institutions;

7 F. "persons with disabilities" means persons who
8 have a mental or physical impairment that constitutes or
9 results in a substantial impediment to employment as defined by
10 the federal Rehabilitation Act of 1973;

11 G. "qualified individual" means a person with a
12 disability who is a business owner, or a business that is
13 primarily owned and operated by persons with disabilities that
14 employs at least seventy-five percent persons with disabilities
15 in the provision of direct labor, which has been approved by
16 the council to provide services to state agencies and local
17 public bodies. A person who is receiving services pursuant to
18 an individualized plan of employment from the vocational
19 rehabilitation [~~division of the public education department~~]
20 office or from the commission for the blind shall be presumed
21 to be a person with disability, as shall a person who is
22 receiving supplemental security income or social security
23 benefits based on disability;

24 H. "state agency" means a department, commission,
25 council, board, committee, institution, legislative body,

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1 agency, government corporation, educational institution or
2 official of the executive, legislative or judicial branch of
3 government of this state; and

4 I. "state purchasing agent" means the director of
5 the purchasing division of the general services department."

6 SECTION 15. Section 21-6-2 NMSA 1978 (being Laws 1899,
7 Chapter 42, Section 3, as amended) is amended to read:

8 "21-6-2. PURPOSES--ADMISSION AGE--ADMISSION OF
9 NONRESIDENTS--TUITION--CHANGE OF NAME--EXPENDITURES FOR
10 GRADUATES IN COLLEGE--AUDIOLOGICAL CLINIC--SCHOLARSHIPS--
11 PRESIDENT'S POWERS.--

12 A. Except as otherwise provided in this section,
13 the New Mexico school for the deaf shall be devoted exclusively
14 to the care and instruction of persons of either sex who are
15 residents within the state and between the ages of five years
16 and the age of majority and who are deaf or hard-of-hearing;
17 provided that the board of regents, in its discretion, may
18 admit residents of this state who have attained the age of one
19 year for daytime care and instruction, but not for residential
20 purposes, and may also admit residents of this state who are
21 over the age of majority.

22 B. The board of regents may make expenditures for
23 undergraduate collegiate expenses of graduates of the New
24 Mexico school for the deaf. The board of regents may permit
25 the use of facilities of the school by public and private

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1 agencies in the state in carrying on a conservation-of-hearing
2 program when the agencies participate in the cost of the
3 operation, upon such terms and conditions as the board of
4 regents may prescribe.

5 C. The board of regents may contract with the
6 veterans' administration and the vocational rehabilitation
7 ~~[division of the public education department]~~ office to
8 provide instruction for adults with a disability in vocations
9 or lip reading taught at the school, but such adults may not
10 be housed at the school. The board of regents may lease for
11 a nominal sum for periods not to exceed three months to the
12 public schools, institutions and agencies of the state any
13 hearing test equipment owned by the school.

14 D. The board of regents, for the purpose of
15 creating a source of teachers of the deaf, may pay tuition
16 and other necessary expenses of graduates of New Mexico
17 colleges desiring to take training to teach the deaf in
18 out-of-state training centers and intending to make the
19 teaching of the deaf in New Mexico their profession.

20 E. All instruction shall be free. Deaf or
21 hard-of-hearing children from other states or territories may
22 be received and educated in the school under such rules and
23 regulations as the board of regents may prescribe, but in no
24 event shall such children be admitted except upon the payment
25 or guaranty of at least one thousand dollars (\$1,000) for the

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1 school year, on the basis of nine months for a school year.
2 The president of the board of regents is authorized to make
3 and enter into on behalf of the school all necessary
4 agreements and contracts with the United States government
5 and the proper authorities of other states and territories
6 for the reception and education of such children, and the
7 president is further authorized to receive and receipt for
8 all money paid upon such account and to endorse and transfer
9 all checks, vouchers or other evidences of payment made or
10 received in behalf of the school."

11 SECTION 16. Section 22-14-1 NMSA 1978 (being Laws
12 1967, Chapter 16, Section 191, as amended) is amended to
13 read:

14 "22-14-1. DEFINITIONS.--As used in Sections 22-14-2
15 through 22-14-16 NMSA 1978:

16 A. "vocational education" means vocational or
17 technical training or retraining conducted as part of a
18 program designed to enable an individual to engage in a
19 remunerative occupation. Vocational education may provide
20 but is not limited to guidance and counseling, vocational
21 instruction, training for vocational education instructors,
22 transportation and training material and equipment; and

23 ~~[B. "person with a disability" means a person~~
24 ~~with a physical or mental disability that constitutes a~~
25 ~~substantial handicap to employment but that is of such a~~

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1 ~~nature that vocational rehabilitation may be reasonably~~
2 ~~expected to enable the person to engage in a remunerative~~
3 ~~occupation;~~

4 ~~C. "vocational rehabilitation" means services or~~
5 ~~training necessary to enable a person with a disability to~~
6 ~~engage in a remunerative occupation. Vocational~~
7 ~~rehabilitation may provide but is not limited to medical or~~
8 ~~vocational diagnosis, vocational guidance, counseling and~~
9 ~~placement, rehabilitation training, physical restoration,~~
10 ~~transportation, occupational licenses, customary occupational~~
11 ~~tools or equipment, maintenance and training material and~~
12 ~~equipment; and~~

13 ~~D.]~~ B. "federal aid funds" means funds, gifts or
14 grants received by the state under any federal aid for
15 vocational education [~~or vocational rehabilitation~~]."

16 SECTION 17. Section 22-14-9 NMSA 1978 (being Laws
17 1967, Chapter 16, Section 198, as amended) is amended to
18 read:

19 "22-14-9. CUSTODY OF FUNDS--BUDGETS--DISBURSEMENTS.--

20 A. The state treasurer shall be the custodian of
21 all federal aid funds. The state treasurer shall hold these
22 funds in separate accounts according to the purposes of the
23 funds.

24 B. All state funds, federal aid funds or grants
25 to the state relating to vocational education shall be

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1 budgeted and accounted for as provided by law and by the
2 rules of the department of finance and administration. These
3 funds or grants shall be disbursed by warrants of the
4 department of finance and administration on vouchers issued
5 by the director of the instructional support and vocational
6 education division of the department or the director's
7 authorized representative.

8 ~~[C. All state funds, federal aid funds or grants~~
9 ~~to the state relating to vocational rehabilitation shall be~~
10 ~~budgeted and accounted for as provided by law and by the~~
11 ~~rules of the department of finance and administration. These~~
12 ~~funds or grants shall be disbursed by warrants of the~~
13 ~~department of finance and administration on vouchers issued~~
14 ~~by the director of the vocational rehabilitation division or~~
15 ~~the director's authorized representative.~~

16 ~~D.]~~ C. All federal aid funds received by the
17 state to be used for vocational education [~~or vocational~~
18 ~~rehabilitation]~~ programs may be expended in any succeeding
19 year from the year received."

20 SECTION 18. Section 22-14-14 NMSA 1978 (being Laws
21 1967, Chapter 16, Section 202) is amended to read:

22 "22-14-14. LIMITATIONS ON POLITICAL ACTIVITIES.--~~[No]~~
23 A person engaged in administering any vocational education
24 [~~or vocational rehabilitation]~~ program pursuant to Sections
25 [~~77-12-1 through 77-12-14 New Mexico Statutes Annotated, 1953~~

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1 ~~Compilation]~~ 22-14-1 through 22-14-16 NMSA 1978 shall not use
2 [~~his~~] the person's official authority or influence to permit
3 the use of the vocational education [~~or vocational~~
4 ~~rehabilitation~~] program to interfere with any public election
5 or partisan political campaign. [~~Nor shall such~~] That person
6 shall not take any active part in the management of a
7 political campaign or participate in any political activity
8 beyond the person's constitutional rights of voting and of
9 free speech. [~~Nor~~] The person shall [~~he~~] not be required to
10 contribute or render service, assistance, subscription,
11 assessment or contribution for any political purpose. Any
12 person violating the provisions of this section shall be
13 subject to discharge or suspension."

14 SECTION 19. Section 22-14-20 NMSA 1978 (being Laws
15 1971, Chapter 324, Section 5, as amended) is amended to read:

16 "22-14-20. NEW MEXICO SCHOOL FOR THE BLIND AND
17 VISUALLY [~~HANDICAPPED~~] IMPAIRED--CERTAIN FUNCTIONS
18 TRANSFERRED.--There is transferred to the [~~services for the~~
19 ~~blind administrative unit of the~~] vocational rehabilitation
20 [~~division of the department of education~~] commission those
21 powers, fiscal responsibilities, duties, records, equipment,
22 lands, buildings and personnel of the New Mexico school for
23 the blind and visually [~~handicapped~~] impaired pertaining to
24 the training, rehabilitating and employing of blind persons
25 over the age of eighteen years in cooperation with any other

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1 federal or state agency."

2 SECTION 20. Section 28-10-1 NMSA 1978 (being Laws
3 1973, Chapter 349, Section 1, as amended) is amended to read:

4 "28-10-1. GOVERNOR'S COMMISSION ON DISABILITY.--

5 A. The "governor's commission on disability" is
6 created, consisting of sixteen members, nine of whom shall be
7 appointed by the governor. The seven remaining members shall
8 be the director of the vocational rehabilitation [~~division of~~
9 ~~the public education department~~] office, the secretary of
10 workforce solutions or the secretary's designee, the director
11 of the behavioral health services division of the human
12 services department, the secretary of children, youth and
13 families or the secretary's designee, the secretary of early
14 childhood education and care or the secretary's designee, the
15 secretary of aging and long-term services or the secretary's
16 designee and the secretary of human services or the
17 secretary's designee. Initially, three members shall be
18 appointed for terms ending December 31, 1978, three members
19 for terms ending December 31, 1980 and three members for
20 terms ending December 31, 1982. Thereafter, appointments
21 shall be for six years expiring on December 31 of even-
22 numbered years. Appointed members shall be appointed from
23 different geographic areas of the state and from the major
24 disability services in the state. Appointed members shall
25 include persons with disabilities, representatives of

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1 government and private enterprise, parents or guardians of
2 persons with disabilities and professionals in, or those who
3 are interested in, service for persons with disabilities.
4 Not more than five of the members appointed by the governor
5 shall be of the same political party.

6 B. A majority of the members of the commission
7 constitutes a quorum for the transaction of business. The
8 commission shall meet at least twice a year and shall
9 annually elect a chair and a vice chair.

10 C. The commission shall be primarily concerned
11 with those persons with disabilities who have a condition
12 that, regardless of its physical or mental origin,
13 constitutes a substantial occupational disadvantage."

14 SECTION 21. Section 28-11A-3 NMSA 1978 (being Laws
15 1981, Chapter 260, Section 3) is amended to read:

16 "28-11A-3. VOCATIONAL REHABILITATION [~~DIVISION~~]
17 OFFICE--PURCHASE OF TELECOMMUNICATION DEVICES FOR THE DEAF.--
18 [~~A telecommunication device for the deaf shall be purchased~~
19 ~~by] The vocational rehabilitation [~~division of the department~~
20 ~~of education]~~ office shall purchase and [~~installed]~~ install a
21 telecommunication device for the deaf in the office of the
22 municipal police department of any municipality with a
23 population in excess of ten thousand inhabitants, if the
24 [~~division]~~ office determines and verifies that at least five
25 telecommunication devices for the deaf are in use by deaf~~

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1 persons in the municipality, and in the office of the county
2 sheriff in counties not having a municipality with a
3 population in excess of ten thousand inhabitants, if the
4 [~~division~~] commission determines and verifies that at least
5 five such devices are in use by deaf persons in that county."

6 SECTION 22. Section 28-11B-1 NMSA 1978 (being Laws
7 1991, Chapter 72, Section 1, as amended) is amended to read:

8 "28-11B-1. COMMISSION FOR DEAF AND HARD-OF-HEARING
9 PERSONS CREATED.--

10 A. [~~There is created~~] The "commission for deaf
11 and hard-of-hearing persons" is created, consisting of seven
12 members, a majority of whom are deaf or hard-of-hearing
13 persons, including three ex-officio members and four members
14 appointed by the governor without regard for party
15 affiliation, with the advice and consent of the senate.
16 Terms of appointed members shall be for six years, expiring
17 on December 31 of odd-numbered years, in accordance with the
18 staggered terms of the appointed members holding office on
19 [~~the effective date of this~~] June 18, 1999 [~~amendment~~].

20 B. Ex-officio members are the:

21 (1) [~~the~~] president of the New Mexico
22 association [~~for~~] of the deaf or [~~his~~] the president's
23 designee;

24 (2) [~~the~~] superintendent of the New Mexico
25 school for the deaf or [~~his~~] the superintendent's designee;

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1 and

2 (3) [~~the~~] director of the vocational
3 rehabilitation [~~division of the state department of public~~
4 ~~education~~] office or [~~his~~] the director's designee, who shall
5 be knowledgeable in the area of deafness.

6 C. Appointed members are:

7 (1) a parent of a deaf or hard-of-hearing
8 child;

9 (2) a professional person who is deaf or
10 hard of hearing;

11 (3) a deaf or hard-of-hearing person who
12 resides in southern New Mexico; and

13 (4) a deaf or hard-of-hearing person who
14 resides in northern New Mexico.

15 D. A majority of the members of the commission
16 for deaf and hard-of-hearing persons constitutes a quorum for
17 transaction of business. The commission shall elect a
18 [~~chairman~~] chair from its membership.

19 E. Members of the commission for deaf and hard-
20 of-hearing persons shall be compensated as provided in the
21 Per Diem and Mileage Act and shall receive no other
22 compensation, perquisite or allowance.

23 F. Commission members who are serving [~~upon the~~
24 ~~effective date of this 1999 act~~] on June 18, 1999 shall serve
25 out the terms to which they were appointed."

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1 SECTION 23. Section 28-16A-4 NMSA 1978 (being Laws
2 1993, Chapter 50, Section 4, as amended) is amended to read:

3 "28-16A-4. DEVELOPMENTAL DISABILITIES COUNCIL--
4 CREATION--MEMBERSHIP--TERMS.--

5 A. The "developmental disabilities council" is
6 created in accordance with the federal Developmental
7 Disabilities Assistance and Bill of Rights Act. The council
8 shall be an adjunct agency as provided in the Executive
9 Reorganization Act.

10 B. The council shall consist of no fewer than
11 twenty-six members, at least sixty percent of whom shall be:

12 (1) persons with developmental disabilities;
13 (2) parents or legal guardians of children
14 with developmental disabilities; or

15 (3) immediate relatives or guardians of
16 adults with mentally impairing developmental disabilities who
17 cannot advocate for themselves.

18 C. Of the sixty percent of members described in
19 Subsection B of this section, one-third shall be persons with
20 developmental disabilities, one-third shall be members
21 described in Paragraphs (2) and (3) of Subsection B of this
22 section and one-third shall be a combination of members
23 described in Subsection B of this section. At least one
24 member described in Subsection B of this section shall be an
25 immediate relative or guardian of a person who resides or

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1 previously resided in an institution or shall be a person
2 with a developmental disability who resides or previously
3 resided in an institution. No member of the council shall be
4 an employee, or someone who manages employees, of a state
5 agency that receives funds to provide developmental
6 disabilities supports and services.

7 D. The council shall also include:

- 8 (1) the secretary of health, or the
9 secretary's designee;
- 10 (2) the secretary of human services, or the
11 secretary's designee;
- 12 (3) the secretary of children, youth and
13 families, or the secretary's designee;
- 14 (4) the secretary of early childhood
15 education and care, or the secretary's designee;
- 16 (5) the secretary of aging and long-term
17 services, or the secretary's designee;
- 18 (6) the secretary of public education, or
19 the secretary's designee;
- 20 (7) the director of the vocational
21 rehabilitation [~~division of the public education department~~]
22 office, or the director's designee;
- 23 (8) the director of the state protection and
24 advocacy system established pursuant to the federal
25 Developmental Disabilities Assistance and Bill of Rights Act

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1 of 1990, or the director's designee;

2 (9) the director of an entity within a state
3 institution of higher education designated as a university
4 center for excellence in developmental disabilities
5 education, research and service; and

6 (10) at all times, representatives of local
7 and nongovernmental agencies and private nonprofit groups
8 concerned with services for persons with developmental
9 disabilities in New Mexico.

10 E. The governor shall select the members of the
11 council for appointment pursuant to Subsection B and
12 Paragraphs (9) and (10) of Subsection D of this section after
13 soliciting recommendations from organizations representing a
14 broad range of persons with developmental disabilities and
15 other persons interested in persons with developmental
16 disabilities. The council may, at the initiative of the
17 council or at the request of the governor, coordinate council
18 and public input to the governor regarding all
19 recommendations.

20 F. The membership of the council shall be
21 geographically representative of the state and reflect the
22 diversity of the state with respect to race and ethnicity.

23 G. Members, except for ex-officio members, shall
24 be appointed by the governor for terms of three years.

25 H. The governor shall provide for rotation of the

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1 membership of the council. These provisions shall allow
2 members to continue to serve on the council until those
3 members' successors are appointed and qualified.

4 I. The council shall notify the governor
5 regarding membership requirements of the council and shall
6 notify the governor when vacancies on the council remain
7 unfilled for a significant period of time.

8 J. Council members shall recuse themselves from
9 any discussion of grants or contracts for which such members'
10 departments, agencies or programs are grantees, contractors
11 or applicants. The council shall ensure that no council
12 member casts a vote on any matter that would provide direct
13 financial benefit to the member or otherwise give the
14 appearance of a conflict of interest."

15 SECTION 24. Section 28-16A-8 NMSA 1978 (being Laws
16 1993, Chapter 50, Section 8, as amended) is amended to read:

17 "28-16A-8. REPORTING ON COMMUNITY SERVICES FOR PERSONS
18 WITH DEVELOPMENTAL DISABILITIES.--The department of health,
19 the human services department, the public education
20 department, the vocational rehabilitation [~~division of the~~
21 ~~public education department~~] commission, the children, youth
22 and families department, the early childhood education and
23 care department, the New Mexico school for the blind and
24 visually impaired and the New Mexico school for the deaf
25 shall provide to the council, on an annual basis, information

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1 and data with respect to the actual or estimated number of
2 persons with developmental disabilities served by the agency,
3 the type of services provided, any major changes in policies
4 adopted in the previous year or anticipated in the coming
5 year that have had or are expected to have a beneficial or
6 deleterious effect on persons with developmental disabilities
7 and any gaps in eligibility or services that pose a barrier
8 to the provision of services needed by persons with
9 developmental disabilities."

10 SECTION 25. Section 28-16A-9 NMSA 1978 (being Laws
11 1993, Chapter 50, Section 9, as amended) is amended to read:

12 "28-16A-9. INFORMATION AND REFERRAL SYSTEM--
13 COORDINATION AND CONTINUATION.--In order to coordinate
14 information and referral services and eliminate the
15 duplication of effort, the council shall provide information
16 and referral services for persons with disabilities, their
17 families, providers of support and services and local and
18 state agencies, including:

- 19 A. the human services department;
20 B. the department of health;
21 C. the public education department [~~and its~~
22 ~~vocational rehabilitation division~~];
23 D. the vocational rehabilitation commission;
24 [~~D.~~] E. the New Mexico school for the deaf;
25 [~~E.~~] F. the New Mexico school for the blind and

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1 visually impaired;

2 [F.] G. the Carrie Tingley crippled children's
3 hospital;

4 [G.] H. the children, youth and families
5 department; and

6 [H.] I. the early childhood education and care
7 department."

8 SECTION 26. Section 38-9-6 NMSA 1978 (being Laws 1979,
9 Chapter 263, Section 6, as amended) is amended to read:

10 "38-9-6. NOTICE--PROOF OF DISABILITY.--Every deaf
11 person whose appearance at a proceeding entitles the person
12 to an interpreter shall notify the appointing authority of
13 the person's disability at least two weeks prior to any
14 appearance and shall request the services of an interpreter.
15 An appointing authority may require a person requesting the
16 appointment of an interpreter to furnish reasonable proof of
17 the person's disability when the appointing authority has
18 reason to believe that the person is not so disabled.
19 Reasonable proof shall include but not be limited to a
20 statement from a doctor, an audiologist, the vocational
21 rehabilitation [~~division of the public education department~~]
22 office, the commission for deaf and hard-of-hearing persons
23 or a school nurse that identifies the person as deaf or as
24 having hearing so seriously impaired as to prohibit the
25 person from understanding voice communications."

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1 **SECTION 27. TEMPORARY PROVISION--TRANSFER OF**
2 **FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, RECORDS AND**
3 **PROPERTY.--On the effective date of this act:**

4 A. all functions, personnel, money,
5 appropriations, records, furniture, equipment, supplies and
6 other property of the vocational rehabilitation division of
7 the public education department are transferred to the
8 vocational rehabilitation commission;

9 B. all contractual obligations of the vocational
10 rehabilitation division of the public education department
11 are binding on the vocational rehabilitation commission and
12 the vocational rehabilitation office; and

13 C. all references in law to the vocational
14 rehabilitation division of the public education department
15 shall be deemed to be references to the vocational
16 rehabilitation commission and the vocational rehabilitation
17 office.

18 **SECTION 28. REPEAL.--Sections 22-14-2.1, 22-14-3.1,**
19 **22-14-7, 22-14-8, 22-14-11 through 22-14-13 and 22-14-30 NMSA**
20 **1978 (being Laws 2005, Chapter 328, Sections 2 and 4, Laws**
21 **1967, Chapter 16, Sections 196 and 197, Laws 1967, Chapter**
22 **16, Section 199, Laws 1983, Chapter 60, Section 1, Laws 1967,**
23 **Chapter 16, Sections 200 and 201 and Laws 1971, Chapter 324,**
24 **Section 4, as amended) are repealed.**

25 **SECTION 29. EFFECTIVE DATE.--The effective date of the**

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1 provisions of this act is July 1, 2023.

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