

1 SENATE BILL 275

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Pat Woods

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10 AN ACT

11 RELATING TO WORKERS' COMPENSATION; DEFINING "EXTRA-HAZARDOUS
12 EMPLOYER" IN THE WORKERS' COMPENSATION ACT; RAISING THE MINIMUM
13 THRESHOLD FOR A MANDATORY SAFETY VISIT; CLARIFYING COMPENSATION
14 BENEFITS TO BENEFICIARIES; ALLOWING ALL PARTIES TO OBTAIN A
15 PERIODIC EXAMINATION OF THE WORKER FROM A HEALTH CARE PROVIDER
16 OF CHOICE; REPLACING THE SAFETY AND FRAUD DIVISION IN THE
17 WORKERS' COMPENSATION ADMINISTRATION WITH AN ENFORCEMENT
18 BUREAU; ALLOWING A PERSON EMPLOYED AS AN OMBUDSMAN PURSUANT TO
19 THE WORKERS' COMPENSATION ADMINISTRATION ACT TO HOLD ANOTHER
20 POSITION IN THE ADMINISTRATION UPON LEAVING THE POSITION OF
21 OMBUDSMAN; ALLOWING THE WORKERS' COMPENSATION ADMINISTRATION TO
22 SERVE PARTIES IN FORMATS IN ADDITION TO CERTIFIED MAIL;
23 REMOVING THE REQUIREMENT THAT HEARINGS ON WORKERS' COMPENSATION
24 CLAIMS BE HELD IN THE COUNTY IN WHICH THE INJURY OCCURRED;
25 PROVIDING PENALTIES; RECONCILING MULTIPLE AMENDMENTS TO THE

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1 SAME SECTION OF LAW IN LAWS 2003.

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

4 SECTION 1. Section 52-1-1.1 NMSA 1978 (being Laws 1986,
5 Chapter 22, Section 26, as amended by Laws 2003, Chapter 259,
6 Section 1 and by Laws 2003, Chapter 263, Section 1) is amended
7 to read:

8 "52-1-1.1. DEFINITIONS.--As used in Chapter 52, Articles
9 1 through 6 NMSA 1978:

10 A. "controlled insurance plan" means a plan of
11 insurance coverage that is established by an owner or principal
12 contractor that requires participation by contractors or
13 subcontractors who are engaged in the construction project,
14 including coverage plans that are for a fixed term of coverage
15 on a single construction site;

16 B. "director" means the director of the workers'
17 compensation administration;

18 C. "division" means the workers' compensation
19 administration;

20 D. "extra-hazardous employer" means an employer
21 whose injury frequencies substantially exceed those that may
22 reasonably be expected in that employer's business or industry;

23 [~~D.~~] E. "rolling wrap-up or consolidated insurance
24 plan" means coverage for an ongoing project or series of
25 projects in which the common insurance program remains in place

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1 indefinitely and contracted work is simply added as it occurs
2 under the control of one owner or principal contractor;

3 [E-] F. "workers' compensation judge" means an
4 individual appointed by the director to act as a workers'
5 compensation judge in the administration of the Workers'
6 Compensation Act or the New Mexico Occupational Disease
7 Disablement Law;

8 [F-] G. "workman" or "workmen" means worker or
9 workers;

10 [G-] H. "Workmen's Compensation Act" means the
11 Workers' Compensation Act; and

12 [H-] I. "workmen's compensation administration" or
13 "administration" means the workers' compensation
14 administration."

15 **SECTION 2.** Section 52-1-6.2 NMSA 1978 (being Laws 1989,
16 Chapter 263, Section 92, as amended) is amended to read:

17 "52-1-6.2. SAFETY PROGRAMS--INSPECTIONS--PENALTIES--
18 BONUSSES.--

19 A. [~~Effective July 1, 1991~~] Every employer subject
20 to the provisions of the Workers' Compensation Act who has an
21 annual workers' compensation premium liability of [~~five~~
22 ~~thousand dollars (\$5,000)] fifteen thousand dollars (\$15,000)
23 or more or who is a certified self-insurer shall receive an
24 annual safety inspection. The director shall determine the
25 adequacy and structure of the safety inspection, including~~

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1 establishing procedures for appropriate self-inspection. For
2 any employer who is not self-insured, inspections and
3 recommendations for creating a safer workplace shall be
4 provided upon request by every insurer providing workers'
5 compensation insurance in this state to ~~[their]~~ its workers'
6 compensation insurance policyholders. To enforce this
7 provision, the director may assess a penalty not to exceed five
8 thousand dollars (\$5,000) against any employer.

9 B. The ~~[advisory council on workers' compensation~~
10 ~~and occupational disease disablement]~~ administration shall
11 develop safety programs for employers with an annual workers'
12 compensation premium liability of less than ~~[five thousand~~
13 ~~dollars (\$5,000)]~~ fifteen thousand dollars (\$15,000).

14 C. The superintendent of insurance may assess a
15 penalty against an insurer that refuses to provide annual
16 safety inspections and recommendations. The penalty shall not
17 exceed five thousand dollars (\$5,000) per insurer per
18 violation.

19 D. Any employer who is subject to the provisions of
20 the Workers' Compensation Act may implement a safety program,
21 as approved by the superintendent of insurance, that provides
22 for bonuses of up to ten percent of a worker's wage to be paid
23 to a worker who fulfills criteria established by the employer
24 for eligibility for the bonus. The criteria shall incorporate
25 the concept of bonuses based upon a stated number of accident-

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1 free work days completed by the worker. Any bonus paid under a
2 program authorized by this section shall not be included in
3 computing a worker's average wage for establishing workers'
4 compensation insurance premiums or benefits.

5 E. The administration shall develop a program to
6 identify extra-hazardous employers. The administration shall
7 notify each identified extra-hazardous employer and the
8 insurance carrier for that employer that the employer has been
9 identified as an extra-hazardous employer.

10 F. An employer that receives notification under
11 Subsection E of this section shall obtain a safety consultation
12 within thirty days from the administration's safety
13 consultants, the employer's insurer or another professional
14 source approved by the director for that purpose. The safety
15 consultant shall file a written report with the director and
16 the employer setting out any hazardous conditions or practices
17 identified by the safety consultation.

18 G. The employer, in consultation with the safety
19 consultant, shall, within a reasonable time, formulate a
20 specific accident-prevention plan that addresses the hazards
21 identified by the consultant. An employer that fails to
22 formulate, implement or otherwise comply with the accident-
23 prevention plan shall be subject to a penalty not to exceed
24 five thousand dollars (\$5,000)."

25 SECTION 3. Section 52-1-46 NMSA 1978 (being Laws 1959,

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1 Chapter 67, Section 25, as amended) is amended to read:

2 "52-1-46. COMPENSATION BENEFITS FOR DEATH.--Subject to
3 the limitation of compensation payable under Subsection G of
4 this section, if an accidental injury sustained by a worker
5 proximately results in [~~his~~] the worker's death within the
6 period of two years following [~~his~~] the worker's accidental
7 injury, compensation shall be paid in the amount and to the
8 persons entitled thereto as follows:

9 A. if there are no eligible dependents, except as
10 provided in Subsection C of Section 52-1-10 NMSA 1978 of the
11 Workers' Compensation Act, the compensation shall be limited to
12 the funeral expenses, not to exceed seven thousand five hundred
13 dollars (\$7,500), and the expenses provided for medical and
14 hospital services for the deceased, together with all other
15 sums [~~which~~] that the deceased should have been paid for
16 compensation benefits up to the time of [~~his~~] the worker's
17 death;

18 B. if there are eligible dependents at the time of
19 the worker's death, payment shall consist of a sum not to
20 exceed seven thousand five hundred dollars (\$7,500) for funeral
21 expenses and expenses provided for medical and hospital
22 services for the deceased, together with such other sums as the
23 deceased should have been paid for compensation benefits up to
24 the time of [~~his~~] the worker's death and compensation benefits
25 to the eligible dependents as hereinafter specified, subject to

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1 the limitations on maximum periods of recovery provided in
2 Sections 52-1-41 through 52-1-43 and 52-1-47 NMSA 1978;

3 C. if there are eligible dependents entitled
4 thereto, compensation shall be paid to the dependents or to the
5 person authorized by the director or appointed by the court to
6 receive the same for the benefit of the dependents in such
7 portions and amounts, to be computed and distributed as
8 follows:

9 (1) [~~to the child or children~~] if there is no
10 widow or widower entitled to compensation, sixty-six and two-
11 thirds percent of the average weekly wage of the deceased to
12 the child or children;

13 (2) [~~to the widow or widower~~] if there are no
14 children, sixty-six and two-thirds percent of the average
15 weekly wage of the deceased to the widow or widower, until
16 remarriage; or

17 [~~(3) to the widow or widower, if there is a~~
18 ~~child or children living with the widow or widower, forty-five~~
19 ~~percent of the average weekly wage of the deceased, or forty~~
20 ~~percent if such child is not or all such children are not~~
21 ~~living with a widow or widower and, in addition thereto,~~
22 ~~compensation benefits for the child or children which shall~~
23 ~~make the total benefits for the widow or widower and child or~~
24 ~~children sixty-six and two-thirds percent of the average weekly~~
25 ~~wage of the deceased. When there are two or more children, the~~

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1 ~~compensation benefits payable on account of such children shall~~
2 ~~be divided among such children, share and share alike]~~

3 (3) if there is a widow or widower and
4 children:

5 (a) if all the children are living with
6 the widow or widower, forty-five percent of the weekly
7 compensation benefits as provided in Sections 52-1-41 through
8 52-1-43 and 52-1-47 NMSA 1978 to the widow or widower and
9 fifty-five percent divided equally to the children; or

10 (b) if no child is living with a widow
11 or widower, forty percent of the weekly compensation benefits
12 as provided in Sections 52-1-41 through 52-1-43 and 52-1-47
13 NMSA 1978 to the widow or widower and sixty percent divided
14 equally to the children; and

15 (4) two years' compensation benefits in one
16 lump sum shall be payable to a widow or widower upon
17 remarriage; however, the total benefits shall not exceed the
18 maximum compensation benefit as provided in Subsection B of
19 this section;

20 D. if there is neither widow, widower nor children,
21 compensation may be paid to the father and mother or the
22 survivor of them, if dependent to any extent upon the worker
23 for support at the time of the worker's death, twenty-five
24 percent of the average weekly wage of the deceased, and in no
25 event shall the maximum compensation to such dependents exceed

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1 the amounts contributed by the deceased worker for their care;
2 provided that if the father and mother, or the survivor of
3 them, was totally dependent upon such worker for support at the
4 time of the worker's death, ~~[he or]~~ they shall be entitled to
5 fifty percent of the average weekly wage of the deceased;

6 E. if there is neither widow, widower nor children
7 nor dependent parent, then to the brothers and sisters and
8 grandchildren if actually dependent to any extent upon the
9 deceased worker for support at the time of the worker's death,
10 thirty-five percent of the average weekly wage of the deceased
11 worker with fifteen percent additional for brothers and sisters
12 and grandchildren in excess of two, with a maximum of sixty-six
13 and two-thirds percent of the average weekly wage of the
14 deceased, and in no event shall the maximum compensation to
15 partial dependents exceed the respective amounts contributed by
16 the deceased worker for their care;

17 F. in the event of the death or remarriage of the
18 widow or widower entitled to compensation benefits as provided
19 in this section, the surviving children shall then be entitled
20 to compensation benefits computed and paid as provided in
21 Paragraph (1) of Subsection C of this section for the remainder
22 of the compensable period. In the event compensation benefits
23 payable to children as provided in this section are terminated
24 as provided in Subsection E of Section 52-1-17 NMSA 1978, a
25 surviving widow or widower shall then be entitled to

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1 compensation benefits computed and paid as provided in
2 Paragraphs (2) and (4) of Subsection C of this section for the
3 remainder of the compensable period; and

4 G. no compensation benefits payable by reason of a
5 worker's death shall exceed the maximum weekly compensation
6 benefits as provided in Sections 52-1-41 through 52-1-43 and
7 52-1-47 NMSA 1978, and no dependent or any class thereof, other
8 than a widow, widower or children, shall in any event be paid
9 total benefits in excess of seven thousand five hundred dollars
10 (\$7,500) exclusive of funeral expenses and the expenses
11 provided for medical and hospital services for the deceased
12 paid for by the employer."

13 SECTION 4. Section 52-1-51 NMSA 1978 (being Laws 1929,
14 Chapter 113, Section 19, as amended) is amended to read:

15 "52-1-51. PHYSICAL EXAMINATIONS OF WORKER--INDEPENDENT
16 MEDICAL EXAMINATION--UNSANITARY OR INJURIOUS PRACTICES BY
17 WORKER--TESTIMONY OF HEALTH CARE PROVIDERS.--

18 A. In the event of a dispute between the parties
19 concerning the reasonableness or necessity of medical or
20 surgical treatment, the date upon which maximum medical
21 improvement was reached, the correct impairment rating for the
22 worker, the cause of an injury or any other medical issue, if
23 the parties cannot agree upon the use of a specific independent
24 medical examiner, either party may petition a workers'
25 compensation judge for permission to have the worker undergo an

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1 independent medical examination. If a workers' compensation
2 judge believes that an independent medical examination will
3 assist the judge with the proper determination of any issue in
4 the case, including the cause of the injury, the workers'
5 compensation judge may order an independent medical examination
6 upon the judge's own motion. The independent medical
7 examination shall be performed immediately, pursuant to
8 procedures adopted by the director, by a health care provider
9 other than the designated health care provider, unless the
10 employer and the worker otherwise agree.

11 B. In deciding who may conduct the independent
12 medical examination, the workers' compensation judge shall not
13 designate the health care provider initially chosen by the
14 petitioner. The workers' compensation judge shall designate a
15 health care provider on the approved list of persons authorized
16 by the committee appointed by the advisory council on workers'
17 compensation to create that list. The decision of the workers'
18 compensation judge shall be final. The employer shall pay for
19 any independent medical examination.

20 C. Only a health care provider who has treated the
21 worker pursuant to Section 52-1-49 NMSA 1978 or the health care
22 provider providing the independent medical examination pursuant
23 to this section may offer testimony at any workers'
24 compensation hearing concerning the particular injury in
25 question.

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1 D. If, pursuant to Subsection C of Section 52-1-49
2 NMSA 1978, either party selects a new health care provider, the
3 other party shall be entitled to periodic examinations of the
4 worker by the health care provider the ~~[worker]~~ other party
5 previously selected. Examinations may not be required more
6 frequently than at six-month intervals; except that upon
7 application to the workers' compensation judge having
8 jurisdiction of the claim and after reasonable cause therefor,
9 examinations within six-month intervals may be ordered. In
10 considering such applications, the workers' compensation judge
11 shall exercise care to prevent harassment of the claimant.

12 E. If an independent medical examination or an
13 examination pursuant to Subsection D of this section is
14 requested, the worker shall travel to the place at which the
15 examination shall be conducted. Within thirty days after the
16 examination, the worker shall be compensated by the employer
17 for all necessary and reasonable expenses incidental to
18 submitting to the examination, including the cost of travel,
19 meals, lodging, loss of pay or other like direct expense, but
20 the amount to be compensated for meals and lodging shall not
21 exceed that allowed for nonsalaried public officers under the
22 Per Diem and Mileage Act.

23 F. No attorney shall be present at any examination
24 authorized under this section.

25 G. Both the employer and the worker shall be given

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1 a copy of the report of the examination of the worker made by
2 the independent health care provider pursuant to this section.

3 H. If a worker fails or refuses to submit to
4 examination in accordance with this section, the worker shall
5 forfeit all workers' compensation benefits that would accrue or
6 become due to the worker except for that failure or refusal to
7 submit to examination during the period that the worker
8 persists in such failure and refusal unless the worker is by
9 reason of disability unable to appear for examination.

10 I. If any worker persists in any unsanitary or
11 injurious practice that tends to imperil, retard or impair the
12 worker's recovery or increase the worker's disability or
13 refuses to submit to such medical or surgical treatment as is
14 reasonably essential to promote the worker's recovery, the
15 workers' compensation judge may in the judge's discretion
16 reduce or suspend the workers' compensation benefits."

17 SECTION 5. Section 52-5-1.3 NMSA 1978 (being Laws 1990
18 (2nd S.S.), Chapter 2, Section 63) is amended to read:

19 "52-5-1.3. [~~SAFETY AND FRAUD DIVISION~~] ENFORCEMENT
20 BUREAU.--

21 A. There is created in the workers' compensation
22 administration [~~a "safety and fraud division"~~] an "enforcement
23 bureau".

24 [~~B. The safety and fraud division shall develop a~~
25 ~~program to identify extra-hazardous employers. "Extra-~~

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1 ~~hazardous employer" means an employer whose injury frequencies~~
2 ~~substantially exceed those that may reasonably be expected in~~
3 ~~that employer's business or industry. The safety and fraud~~
4 ~~division shall notify each identified extra-hazardous employer~~
5 ~~and the insurance carrier for that employer that the employer~~
6 ~~has been identified as an extra-hazardous employer.~~

7 ~~G. An employer who receives notification under~~
8 ~~Subsection B of this section must obtain a safety consultation~~
9 ~~within thirty days from the safety and fraud division, the~~
10 ~~employer's insurer or another professional source approved by~~
11 ~~the director for that purpose. The safety consultant shall~~
12 ~~file a written report with the director and the employer~~
13 ~~setting out any hazardous conditions or practices identified by~~
14 ~~the safety consultation.~~

15 ~~D. The employer in consultation with the safety~~
16 ~~consultant shall, within a reasonable time, formulate a~~
17 ~~specific accident prevention plan that addresses the hazards~~
18 ~~identified by the consultant. An employer who fails to~~
19 ~~formulate, implement or otherwise comply with the accident~~
20 ~~prevention plan shall be subject to a penalty not to exceed~~
21 ~~five thousand dollars (\$5,000).~~

22 ~~E.]~~ B. The [~~safety and fraud division~~] enforcement
23 bureau shall investigate to determine whether any fraudulent
24 conduct relating to workers' compensation is being practiced.
25 The [~~safety and fraud division~~] enforcement bureau shall refer

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1 to an appropriate law enforcement agency any finding of fraud.
2 For any claim pending in the administration, the [~~safety and~~
3 ~~fraud division~~] enforcement bureau shall also bring its
4 findings to the attention of the workers' compensation judge
5 assigned to that claim.

6 [F-] C. For the purposes of this section, "fraud"
7 includes the intentional misrepresentation of a material fact
8 resulting in workers' compensation or occupational disablement
9 coverage, the payment or withholding of benefits or an attempt
10 to obtain or withhold benefits. The intentional
11 misrepresentation of a material fact may occur through the
12 conduct, practices, omissions or representations of any person.
13 Any person found guilty of committing fraud shall be sentenced
14 pursuant to the provisions of Section 30-16-6 NMSA 1978 and the
15 provisions of the Criminal Sentencing Act."

16 SECTION 6. Section 52-5-1.4 NMSA 1978 (being Laws 1990
17 (2nd S.S.), Chapter 2, Section 64, as amended) is amended to
18 read:

19 "52-5-1.4. OMBUDSMAN PROGRAM.--

20 A. The director shall establish an ombudsman
21 program to assist injured or disabled workers, persons claiming
22 death benefits, employers and other persons in protecting their
23 rights and obtaining information available under workers'
24 compensation and occupational disease disablement laws.

25 B. An ombudsman shall meet with or otherwise

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1 provide information to injured or disabled workers, investigate
2 complaints and communicate with employers, insurance carriers
3 and health care providers on behalf of injured or disabled
4 workers. An ombudsman shall otherwise assist unrepresented
5 claimants, employers and other parties to enable them to
6 protect their rights in the workers' compensation and
7 occupational disease disablement system. At least one
8 specially qualified employee in each location that the
9 administration has an office shall be designated by the
10 director as an ombudsman, and duties described in this section
11 shall be that person's primary responsibility. The director
12 may designate additional ombudsmen and assign them as ~~[he]~~ the
13 director deems appropriate.

14 C. An ombudsman need not be an attorney but shall
15 demonstrate familiarity with workers' compensation and
16 occupational disease disablement laws. ~~[Any person employed as
17 an ombudsman shall be ineligible to hold any other position in
18 the administration for at least one year from the date of
19 leaving the position of ombudsman.]~~

20 D. An ombudsman shall not be an advocate for any
21 person and shall restrict ~~[his]~~ ombudsman's activities to
22 providing information and facilitating communication. An
23 ombudsman shall not assist a claimant, employer or any other
24 person in any proceeding beyond the informal conference held
25 pursuant to Section 52-5-5 NMSA 1978.

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1 E. Each employer shall notify [~~his~~] the employer's
2 employees of the ombudsman service in a manner prescribed by
3 the director. The notice shall include the posting of a notice
4 in one or more conspicuous places. The director shall also
5 describe clearly the availability of the ombudsmen on the first
6 report of accident form required under Section 52-1-58 NMSA
7 1978, or the first report of disablement form required under
8 Section 52-3-51 NMSA 1978."

9 **SECTION 7.** Section 52-5-5 NMSA 1978 (being Laws 1986,
10 Chapter 22, Section 31, as amended) is amended to read:

11 "52-5-5. CLAIMS--INFORMAL CONFERENCES.--

12 A. When a dispute arises under the Workers'
13 Compensation Act or the New Mexico Occupational Disease
14 Disablement Law, any party may file a claim with the director
15 no sooner than thirty-one days from the date of injury or the
16 occurrence of the disabling disease. The director shall assist
17 workers and employees not represented by counsel in the
18 preparation of the claim document.

19 B. The director shall prepare a form of claim,
20 which shall be available to all parties. The claim shall state
21 concisely in numbered paragraphs the questions at issue or in
22 dispute [~~which~~] that the claimant expects to be determined with
23 sufficient particularity that the responding or opposing party
24 may be notified adequately of the claim and its basis,
25 including, if applicable, the specific benefit [~~which~~] that is

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1 due and not paid.

2 C. Upon receipt, every claim shall be evaluated by
3 the director or [~~his~~] the director's designee, who shall then
4 contact all parties and attempt to informally resolve the
5 dispute. Within sixty days after receipt of the claim, the
6 director shall issue [~~his~~] recommendations for resolution and
7 [~~provide~~] serve the parties with a copy [~~by certified mail,~~
8 ~~return receipt requested~~]. Within thirty days of receipt of
9 the recommendation of the director, each party shall notify the
10 director on a form provided by [~~him~~] the director of the
11 acceptance or rejection of the recommendation. A party failing
12 to notify the director waives any right to reject the
13 recommendation and is bound conclusively by the director's
14 recommendation unless, upon application made to the director
15 within thirty days after the foregoing deadline, the director
16 finds that the party's failure to notify was the result of
17 excusable neglect. If either party makes a timely rejection of
18 the director's recommendation, the claim shall be assigned to a
19 workers' compensation judge for hearing.

20 D. Each party to a dispute shall have a peremptory
21 right to disqualify one workers' compensation judge; provided
22 that:

23 (1) the employer and [~~his~~] the employer's
24 insurer shall constitute a single party for purposes of this
25 subsection;

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1 (2) this peremptory right to disqualify one
2 worker's compensation judge shall not apply to the judge
3 appointed pursuant to Section 52-1-49 NMSA 1978 to render a
4 decision within seven days on a request for a different health
5 care provider; and

6 (3) no party shall be required to disqualify a
7 workers' compensation judge until a judge has been assigned to
8 a case."

9 SECTION 8. Section 52-5-6 NMSA 1978 (being Laws 1986,
10 Chapter 22, Section 32, as amended) is amended to read:

11 "52-5-6. AUTHORITY OF THE DIRECTOR TO CONDUCT HEARINGS.--

12 ~~[A. Hearings shall be held in the county in which~~
13 ~~the injury or disablement occurred for which the claim is being~~
14 ~~made unless the parties agree otherwise. Upon motion of a~~
15 ~~party, or upon his own motion, if he finds that good cause~~
16 ~~exists, the workers' compensation judge may order the hearing~~
17 ~~to be held in the workers' compensation administration regional~~
18 ~~office located nearest to the county in which the injury or~~
19 ~~disablement occurred or in the county identified as being in~~
20 ~~the best interests of the parties, taking into consideration~~
21 ~~cost-effectiveness, judicial efficiency, the health and~~
22 ~~mobility of the employee and the convenience of parties and~~
23 ~~witnesses.]~~

24 A. Unless the parties agree otherwise, or it is
25 ordered by the workers' compensation judge or the director in

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1 the case of a director's hearing, hearings shall be held at an
2 office of the workers' compensation administration that is
3 located nearest to the location of injury or disablement. In
4 determining the site of hearing, the judge or the director
5 shall consider cost-effectiveness, judicial efficiency, the
6 health and mobility of the worker and the convenience of
7 parties and witnesses. Hearings may be conducted by
8 videoconferencing or by telephone at the discretion of the
9 judge or the director.

10 B. The workers' compensation judge and the director
11 shall have the power to preserve and enforce order during
12 hearings; administer oaths; issue subpoenas to compel the
13 attendance and testimony of witnesses, the production of books,
14 papers, documents and other evidence or the taking of
15 depositions before a designated individual competent to
16 administer oaths; examine witnesses; enter noncriminal
17 sanctions for misconduct; and do all things conformable to law
18 [~~which~~] that may be necessary to enable [~~him~~] the judge or the
19 director to discharge the duties of [~~his~~] the judge's or the
20 director's office effectively.

21 C. In addition to the noncriminal sanctions that
22 may be ordered by the workers' compensation judge or the
23 director, any person committing any of the following acts in a
24 proceeding before a workers' compensation judge or the director
25 may be held accountable for [~~his~~] the person's conduct in

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1 accordance with the provisions of Subsection D of this section:

2 (1) disobedience of or resistance to any
3 lawful order or process;

4 (2) misbehavior during a hearing or so near
5 the place of the hearing as to obstruct it;

6 (3) failure to produce any pertinent book,
7 paper or document after having been ordered to do so;

8 (4) refusal to appear after having been
9 subpoenaed;

10 (5) refusal to take the oath or affirmation as
11 a witness; or

12 (6) refusal to be examined according to law.

13 D. The director may certify to the district court
14 of the district in which the acts were committed the facts
15 constituting any of the acts specified in Paragraphs (1)
16 through (6) of Subsection C of this section. The court shall
17 hold a hearing and, if the evidence so warrants, may punish the
18 offending person in the same manner and to the same extent as
19 for contempt committed before the court, or it may commit the
20 person upon the same conditions as if the doing of the
21 forbidden act had occurred with reference to the process of or
22 in the presence of the court."

23 SECTION 9. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2013.