

1 SENATE BILL 354

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Linda M. Lopez

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9  
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 rehabilitation  
18 may provide medical or vocational diagnosis, vocational  
19 guidance, counseling and placement, rehabilitation training,  
20 physical restoration, transportation, occupational licenses,  
21 customary occupational tools or equipment, maintenance and  
22 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, 2021. 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 on December 31 of even-numbered years.

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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1                   A. The commission may:

2                   (1) establish policies for state programs  
3 relating to vocational rehabilitation, unless otherwise  
4 provided by state law;

5                   (2) cooperate and make agreements with public  
6 or private agencies to establish or maintain a vocational  
7 rehabilitation program;

8                   (3) enter into reciprocal agreements with  
9 other states to provide vocational rehabilitation; and

10                   (4) accept gifts or grants to be used for  
11 vocational rehabilitation.

12                   B. The commission shall:

13                   (1) create a state plan for federal aid funds  
14 relating to vocational rehabilitation;

15                   (2) establish standards to which agencies  
16 shall conform in receiving federal aid funds;

17                   (3) enter into an agreement with the  
18 appropriate federal agency to procure for the state the  
19 benefits of federal law regarding vocational rehabilitation;

20                   (4) collaborate with the federal social  
21 security administration to provide disability determination  
22 services pursuant to federal law; and

23                   (5) determine eligibility for state disability  
24 services pursuant to federal law, the Vocational Rehabilitation  
25 Act and rules promulgated under the Vocational Rehabilitation

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1 Act.

2 SECTION 5. [NEW MATERIAL] VOCATIONAL REHABILITATION  
3 OFFICE--POWERS AND DUTIES.--

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

11 B. The office may:

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

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

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

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

23 C. The office shall:

24 (1) administer vocational rehabilitation  
25 services;

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1 (2) administer a state plan created by the  
2 commission;

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

7 (4) provide for reports to be made to the  
8 federal agency as required; and

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

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

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

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

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

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

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1           SECTION 7.   [NEW MATERIAL] VOCATIONAL REHABILITATION--  
2 ELIGIBILITY REQUIREMENTS.--Vocational rehabilitation shall be  
3 provided to a person who:

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

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

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

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

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

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

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

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1           SECTION 10.   [NEW MATERIAL] NONTRANSFERABLE OR ASSIGNABLE  
2 RIGHTS.--The rights of a person pursuant to state law relating  
3 to vocational rehabilitation are not transferable or assignable  
4 in law or in equity.

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

7           A.   A vocational rehabilitation provider shall not:

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

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

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

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

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

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1 standards of the institution.

2 SECTION 13. Section 9-7-6.4 NMSA 1978 (being Laws 2004,  
3 Chapter 46, Section 8, as amended) is amended to read:

4 "9-7-6.4. INTERAGENCY BEHAVIORAL HEALTH PURCHASING  
5 COLLABORATIVE.--

6 A. [~~There is created~~] The "interagency behavioral  
7 health purchasing collaborative" is created, consisting of the  
8 secretaries of aging and long-term services; Indian affairs;  
9 human services; health; corrections; children, youth and  
10 families; finance and administration; workforce solutions;  
11 public education; and transportation; the directors of the  
12 administrative office of the courts; the New Mexico mortgage  
13 finance authority; the governor's commission on disability; the  
14 developmental disabilities planning council; the instructional  
15 support and vocational [~~rehabilitation~~] education division of  
16 the public education department; and the New Mexico health  
17 policy commission; and the governor's health policy  
18 coordinator, or their designees. The collaborative shall be  
19 chaired by the secretary of human services with the respective  
20 secretaries of health and children, youth and families  
21 alternating annually as co-chairs.

22 B. The collaborative shall meet regularly and at  
23 the call of either co-chair and shall:

24 (1) identify behavioral health needs  
25 statewide, with an emphasis on that hiatus between needs and

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1 services set forth in the department of health's gap analysis  
2 and in ongoing needs assessments, and develop a master plan for  
3 statewide delivery of services;

4 (2) give special attention to regional  
5 differences, including cultural, rural, frontier, urban and  
6 border issues;

7 (3) inventory all expenditures for behavioral  
8 health, including mental health and substance abuse;

9 (4) plan, design and direct a statewide  
10 behavioral health system, ensuring both availability of  
11 services and efficient use of all behavioral health funding,  
12 taking into consideration funding appropriated to specific  
13 affected departments; and

14 (5) contract for operation of one or more  
15 behavioral health entities to ensure availability of services  
16 throughout the state.

17 C. The plan for delivery of behavioral health  
18 services shall include specific service plans to address the  
19 needs of infants, children, adolescents, adults and seniors, as  
20 well as to address workforce development and retention and  
21 quality improvement issues. The plan shall be revised every  
22 two years and shall be adopted by the department of health as  
23 part of the statewide health plan.

24 D. The plan shall take the following principles  
25 into consideration, to the extent practicable and within

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1 available resources:

2 (1) services should be individually centered  
3 and family-focused based on principles of individual capacity  
4 for recovery and resiliency;

5 (2) services should be delivered in a  
6 culturally responsive manner in a home- or community-based  
7 setting, where possible;

8 (3) services should be delivered in the least  
9 restrictive and most appropriate manner;

10 (4) individualized service planning and case  
11 management should take into consideration individual and family  
12 circumstances, abilities and strengths and be accomplished in  
13 consultation with appropriate family members, caregivers and  
14 other persons critical to the individual's life and well-being;

15 (5) services should be coordinated,  
16 accessible, accountable and of high quality;

17 (6) services should be directed by the  
18 individual or family served to the extent possible;

19 (7) services may be consumer- or family-  
20 provided, as defined by the collaborative;

21 (8) services should include behavioral health  
22 promotion, prevention, early intervention, treatment and  
23 community support; and

24 (9) services should consider regional  
25 differences, including cultural, rural, frontier, urban and

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1 border issues.

2 E. The collaborative shall seek and consider  
3 suggestions of Native American representatives from Indian  
4 nations, tribes and pueblos and the urban Indian population,  
5 located wholly or partially within New Mexico, in the  
6 development of the plan for delivery of behavioral health  
7 services.

8 F. Pursuant to the State Rules Act, the  
9 collaborative shall adopt rules through the human services  
10 department for:

11 (1) standards of delivery for behavioral  
12 health services provided through contracted behavioral health  
13 entities, including:

- 14 (a) quality management and improvement;
- 15 (b) performance measures;
- 16 (c) accessibility and availability of  
17 services;
- 18 (d) utilization management;
- 19 (e) credentialing of providers;
- 20 (f) rights and responsibilities of  
21 consumers and providers;
- 22 (g) clinical evaluation and treatment  
23 and supporting documentation; and
- 24 (h) confidentiality of consumer records;

25 and

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1 (2) approval of contracts and contract  
2 amendments by the collaborative, including public notice of the  
3 proposed final contract.

4 G. The collaborative shall, through the human  
5 services department, submit a separately identifiable  
6 consolidated behavioral health budget request. The  
7 consolidated behavioral health budget request shall account for  
8 requested funding for the behavioral health services program at  
9 the human services department and any other requested funding  
10 for behavioral health services from agencies identified in  
11 Subsection A of this section that will be used pursuant to  
12 Paragraph (5) of Subsection B of this section. Any contract  
13 proposed, negotiated or entered into by the collaborative is  
14 subject to the provisions of the Procurement Code.

15 H. The collaborative shall, with the consent of the  
16 governor, appoint a "director of the collaborative". The  
17 director is responsible for the coordination of day-to-day  
18 activities of the collaborative, including the coordination of  
19 staff from the collaborative member agencies.

20 I. The collaborative shall provide a quarterly  
21 report to the legislative finance committee on performance  
22 outcome measures. The collaborative shall submit an annual  
23 report to the legislative finance committee and the interim  
24 legislative health and human services committee that provides  
25 information on:

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1 (1) the collaborative's progress toward  
2 achieving its strategic plans and goals;

3 (2) the collaborative's performance  
4 information, including contractors and providers; and

5 (3) the number of people receiving services,  
6 the most frequently treated diagnoses, expenditures by type of  
7 service and other aggregate claims data relating to services  
8 rendered and program operations."

9 SECTION 14. Section 9-24-4 NMSA 1978 (being Laws 2004,  
10 Chapter 27, Section 4, as amended) is amended to read:

11 "9-24-4. DEPARTMENT CREATED.--

12 A. The "public education department" is created in  
13 the executive branch. The department is a cabinet department  
14 and includes the following divisions:

15 (1) the administrative services division;

16 (2) the assessment and accountability  
17 division;

18 (3) the charter schools division;

19 (4) the educator quality division;

20 (5) the Indian education division;

21 (6) the information technology division;

22 (7) the instructional support and vocational  
23 education division;

24 (8) the program support and student  
25 transportation division;

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- 1 (9) the quality assurance and systems
- 2 integration division; and
- 3 (10) the rural education division [~~and~~
- 4 ~~(11) the vocational rehabilitation division~~].

5 B. The secretary may organize the department and  
6 divisions of the department and may transfer or merge functions  
7 between divisions and bureaus in the interest of efficiency and  
8 economy."

9 SECTION 15. Section 13-1C-3 NMSA 1978 (being Laws 2005,  
10 Chapter 334, Section 3) is amended to read:

11 "13-1C-3. DEFINITIONS.--As used in the State Use Act:

12 A. "central nonprofit agency" means a nonprofit  
13 agency approved pursuant to rules of the council to facilitate  
14 the equitable distribution of orders for the services of:

- 15 (1) qualified individuals; and
- 16 (2) community rehabilitation programs;

17 B. "community rehabilitation program" means a  
18 nonprofit entity:

19 (1) that is organized under the laws of the  
20 United States or this state, operated in the interest of  
21 persons with disabilities and operated so that no part of the  
22 income of which inures to the benefit of any shareholder or  
23 other person;

24 (2) that complies with applicable occupational  
25 health and safety standards as required by federal or state

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1 law; and

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

7 C. "council" means the New Mexico council for  
8 purchasing from persons with disabilities;

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

12 E. "local public body" means a political  
13 subdivision of the state and the political subdivision's  
14 agencies, instrumentalities and institutions;

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

19 G. "qualified individual" means a person with a  
20 disability who is a business owner, or a business that is  
21 primarily owned and operated by persons with disabilities that  
22 employs at least seventy-five percent persons with disabilities  
23 in the provision of direct labor, which has been approved by  
24 the council to provide services to state agencies and local  
25 public bodies. A person who is receiving services pursuant to

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1 an individualized plan of employment from the vocational  
2 rehabilitation [~~division of the public education department~~]  
3 office or from the commission for the blind shall be presumed  
4 to be a person with disability, as shall a person who is  
5 receiving supplemental security income or social security  
6 benefits based on disability;

7 H. "state agency" means a department, commission,  
8 council, board, committee, institution, legislative body,  
9 agency, government corporation, educational institution or  
10 official of the executive, legislative or judicial branch of  
11 government of this state; and

12 I. "state purchasing agent" means the director of  
13 the purchasing division of the general services department."

14 SECTION 16. Section 21-6-2 NMSA 1978 (being Laws 1899,  
15 Chapter 42, Section 3, as amended) is amended to read:

16 "21-6-2. PURPOSES--ADMISSION AGE--ADMISSION OF  
17 NONRESIDENTS--TUITION--CHANGE OF NAME--EXPENDITURES FOR  
18 GRADUATES IN COLLEGE--AUDIOLOGICAL CLINIC--SCHOLARSHIPS--  
19 PRESIDENT'S POWERS.--

20 A. Except as otherwise provided in this section,  
21 the New Mexico school for the deaf shall be devoted exclusively  
22 to the care and instruction of persons of either sex who are  
23 residents within the state and between the ages of five years  
24 and the age of majority and who are deaf or hard-of-hearing;  
25 provided that the board of regents, in its discretion, may

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1 admit residents of this state who have attained the age of one  
2 year for daytime care and instruction, but not for residential  
3 purposes, and may also admit residents of this state who are  
4 over the age of majority.

5 B. The board of regents may make expenditures for  
6 undergraduate collegiate expenses of graduates of the New  
7 Mexico school for the deaf. The board of regents may permit  
8 the use of facilities of the school by public and private  
9 agencies in the state in carrying on a conservation-of-hearing  
10 program when the agencies participate in the cost of the  
11 operation, upon such terms and conditions as the board of  
12 regents may prescribe.

13 C. The board of regents may contract with the  
14 veterans' administration and the vocational rehabilitation  
15 ~~[division of the public education department]~~ office to  
16 provide instruction for adults with a disability in vocations  
17 or lip reading taught at the school, but such adults may not  
18 be housed at the school. The board of regents may lease for  
19 a nominal sum for periods not to exceed three months to the  
20 public schools, institutions and agencies of the state any  
21 hearing test equipment owned by the school.

22 D. The board of regents, for the purpose of  
23 creating a source of teachers of the deaf, may pay tuition  
24 and other necessary expenses of graduates of New Mexico  
25 colleges desiring to take training to teach the deaf in

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1 out-of-state training centers and intending to make the  
2 teaching of the deaf in New Mexico their profession.

3 E. All instruction shall be free. Deaf or  
4 hard-of-hearing children from other states or territories may  
5 be received and educated in the school under such rules and  
6 regulations as the board of regents may prescribe, but in no  
7 event shall such children be admitted except upon the payment  
8 or guaranty of at least one thousand dollars (\$1,000) for the  
9 school year, on the basis of nine months for a school year.  
10 The president of the board of regents is authorized to make  
11 and enter into on behalf of the school all necessary  
12 agreements and contracts with the United States government  
13 and the proper authorities of other states and territories  
14 for the reception and education of such children, and the  
15 president is further authorized to receive and receipt for  
16 all money paid upon such account and to endorse and transfer  
17 all checks, vouchers or other evidences of payment made or  
18 received in behalf of the school."

19 SECTION 17. Section 22-14-1 NMSA 1978 (being Laws  
20 1967, Chapter 16, Section 191, as amended) is amended to  
21 read:

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

24 A. "vocational education" means vocational or  
25 technical training or retraining conducted as part of a

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1 program designed to enable an individual to engage in a  
2 remunerative occupation. Vocational education may provide  
3 but is not limited to guidance and counseling, vocational  
4 instruction, training for vocational education instructors,  
5 transportation and training material and equipment; and

6 ~~[B. "person with a disability" means a person~~  
7 ~~with a physical or mental disability that constitutes a~~  
8 ~~substantial handicap to employment but that is of such a~~  
9 ~~nature that vocational rehabilitation may be reasonably~~  
10 ~~expected to enable the person to engage in a remunerative~~  
11 ~~occupation;~~

12 ~~C. "vocational rehabilitation" means services or~~  
13 ~~training necessary to enable a person with a disability to~~  
14 ~~engage in a remunerative occupation. Vocational~~  
15 ~~rehabilitation may provide but is not limited to medical or~~  
16 ~~vocational diagnosis, vocational guidance, counseling and~~  
17 ~~placement, rehabilitation training, physical restoration,~~  
18 ~~transportation, occupational licenses, customary occupational~~  
19 ~~tools or equipment, maintenance and training material and~~  
20 ~~equipment; and~~

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

24 SECTION 18. Section 22-14-9 NMSA 1978 (being Laws  
25 1967, Chapter 16, Section 198, as amended) is amended to  
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1 read:

2 "22-14-9. CUSTODY OF FUNDS--BUDGETS--DISBURSEMENTS.--

3 A. The state treasurer shall be the custodian of  
4 all federal aid funds. The state treasurer shall hold these  
5 funds in separate accounts according to the purposes of the  
6 funds.

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

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

24 ~~D.]~~ C. All federal aid funds received by the  
25 state to be used for vocational education [~~or vocational~~

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1 ~~rehabilitation~~] programs may be expended in any succeeding  
2 year from the year received."

3 SECTION 19. Section 22-14-14 NMSA 1978 (being Laws  
4 1967, Chapter 16, Section 202) is amended to read:

5 "22-14-14. LIMITATIONS ON POLITICAL ACTIVITIES.--~~[No]~~  
6 A person engaged in administering any vocational education  
7 [~~or vocational rehabilitation~~] program pursuant to Sections  
8 [~~77-12-1 through 77-12-14 New Mexico Statutes Annotated, 1953~~  
9 ~~Compilation~~] 22-14-1 through 22-14-16 NMSA 1978 shall not use  
10 [~~his~~] the person's official authority or influence to permit  
11 the use of the vocational education [~~or vocational~~  
12 ~~rehabilitation~~] program to interfere with any public election  
13 or partisan political campaign. [~~Nor shall such~~] That person  
14 shall not take any active part in the management of a  
15 political campaign or participate in any political activity  
16 beyond the person's constitutional rights of voting and of  
17 free speech. [~~Nor~~] The person shall [~~he~~] not be required to  
18 contribute or render service, assistance, subscription,  
19 assessment or contribution for any political purpose. Any  
20 person violating the provisions of this section shall be  
21 subject to discharge or suspension."

22 SECTION 20. Section 28-10-1 NMSA 1978 (being Laws  
23 1973, Chapter 349, Section 1, as amended) is amended to read:

24 "28-10-1. GOVERNOR'S COMMISSION ON DISABILITY.--

25 A. [~~There is created~~] The "governor's commission

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1 on disability" is created, consisting of fifteen members,  
2 nine of whom shall be appointed by the governor. The six  
3 remaining members shall be the director of the vocational  
4 rehabilitation [~~division of the public education department~~]  
5 office, the secretary of labor or the secretary's designee,  
6 the director of the behavioral health services division of  
7 the human services department, the secretary of children,  
8 youth and families or the secretary's designee, the secretary  
9 of aging and long-term services or the secretary's designee  
10 and the secretary of human services or the secretary's  
11 designee. Initially, three members shall be appointed for  
12 terms ending December 31, 1978, three members for terms  
13 ending December 31, 1980 and three members for terms ending  
14 December 31, 1982. Thereafter, appointments shall be for six  
15 years expiring on December 31 of even-numbered years.

16 Appointed members shall be appointed from different  
17 geographic areas of the state and from the major disability  
18 services in the state. Appointed members shall include  
19 individuals with disabilities, representatives of government  
20 and private enterprise, parents or guardians of individuals  
21 with disabilities and professionals in, or those who are  
22 interested in, service for individuals with disabilities.  
23 Not more than five of the members appointed by the governor  
24 shall be of the same political party.

25 B. A majority of the members of the commission

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1 constitutes a quorum for the transaction of business. The  
2 commission shall meet at least twice a year and shall  
3 annually elect a chair and a vice chair.

4 C. The commission shall be primarily concerned  
5 with those individuals with disabilities who have a condition  
6 that, regardless of its physical or mental origin,  
7 constitutes a substantial occupational disadvantage."

8 SECTION 21. Section 28-11A-3 NMSA 1978 (being Laws  
9 1981, Chapter 260, Section 3) is amended to read:

10 "28-11A-3. VOCATIONAL REHABILITATION ~~[DIVISION]~~  
11 OFFICE--PURCHASE OF TELECOMMUNICATION DEVICES FOR THE DEAF.--  
12 ~~[A telecommunication device for the deaf shall be purchased~~  
13 ~~by]~~ The vocational rehabilitation ~~[division of the department~~  
14 ~~of education]~~ office shall purchase and ~~[installed]~~ install a  
15 telecommunication device for the deaf in the office of the  
16 municipal police department of any municipality with a  
17 population in excess of ten thousand inhabitants, if the  
18 ~~[division]~~ office determines and verifies that at least five  
19 telecommunication devices for the deaf are in use by deaf  
20 persons in the municipality, and in the office of the county  
21 sheriff in counties not having a municipality with a  
22 population in excess of ten thousand inhabitants, if the  
23 ~~[division]~~ commission determines and verifies that at least  
24 five such devices are in use by deaf persons in that county."

25 SECTION 22. Section 28-11B-1 NMSA 1978 (being Laws

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1 1991, Chapter 72, Section 1, as amended) is amended to read:

2 "28-11B-1. COMMISSION FOR DEAF AND HARD-OF-HEARING  
3 PERSONS CREATED.--

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

14 B. Ex-officio members are the:

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

17 (2) [~~the~~] superintendent of the New Mexico  
18 school for the deaf or [~~his~~] the superintendent's designee;  
19 and

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

24 C. Appointed members are:

25 (1) a parent of a deaf or hard-of-hearing

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1 child;

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

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

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

8 D. A majority of the members of the commission  
9 for deaf and hard-of-hearing persons constitutes a quorum for  
10 transaction of business. The commission shall elect a  
11 [~~chairman~~] chair from its membership.

12 E. Members of the commission for deaf and hard-  
13 of-hearing persons shall be compensated as provided in the  
14 Per Diem and Mileage Act and shall receive no other  
15 compensation, perquisite or allowance.

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

19 SECTION 23. Section 28-16A-4 NMSA 1978 (being Laws  
20 1993, Chapter 50, Section 4) is amended to read:

21 "28-16A-4. DEVELOPMENTAL DISABILITIES PLANNING  
22 COUNCIL--CREATION--MEMBERSHIP--TERMS.--

23 A. The "developmental disabilities planning  
24 council" is created in accordance with the federal  
25 Developmental Disabilities Assistance and Bill of Rights Act.

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1 The developmental disabilities planning council shall be an  
2 adjunct agency as provided in the Executive Reorganization  
3 Act.

4 B. The developmental disabilities planning  
5 council shall consist of no fewer than eighteen members, at  
6 least half of whom shall be persons with developmental  
7 disabilities or parents, immediate relatives or legal  
8 guardians of persons with developmental disabilities. The  
9 developmental disabilities planning council shall include:

10 (1) the secretary of health, or ~~[his]~~ the  
11 secretary's designee;

12 (2) the secretary of human services, or  
13 ~~[his]~~ the secretary's designee;

14 (3) the secretary of children, youth and  
15 families, or ~~[his]~~ the secretary's designee;

16 (4) the ~~[director]~~ secretary of ~~[the state~~  
17 ~~agency on]~~ aging and long-term services, or ~~[his]~~ the  
18 secretary's designee;

19 (5) ~~[two directors from the state department~~  
20 ~~of]~~ the secretary of public education ~~[including the~~  
21 ~~vocational rehabilitation division]~~;

22 (6) the director of the vocational  
23 rehabilitation office;

24 ~~[6]~~ (7) the director of the state  
25 protection and advocacy system established pursuant to the

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1 federal Developmental Disabilities Assistance and Bill of  
2 Rights Act;

3 [~~(7)~~] (8) representatives of institutions of  
4 post-secondary education;

5 [~~(8)~~] (9) representatives of each program  
6 established within institutions of post-secondary education  
7 pursuant to the federal Developmental Disabilities Assistance  
8 and Bill of Rights Act; and

9 [~~(9)~~] (10) representatives of local  
10 government agencies, nongovernment agencies or nonprofit  
11 groups concerned with services to persons with developmental  
12 disabilities, including a service provider.

13 C. Members, except for ex-officio members, shall  
14 be appointed by the governor for terms of three years."

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

17 "28-16A-8. PLANNING FOR COMMUNITY SERVICES FOR PERSONS  
18 WITH DEVELOPMENTAL DISABILITIES.--

19 A. The developmental disabilities planning  
20 council shall coordinate, review and comment upon plans for  
21 support and services to persons with developmental  
22 disabilities developed by all major state agencies providing  
23 or funding services to persons with developmental  
24 disabilities based, to the greatest extent possible, upon the  
25 most recent needs assessment completed pursuant to Section [7

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1 ~~of the Developmental Disabilities Act]~~ 28-16A-7 NMSA 1978.

2 B. The department of health, the human services  
3 department, the ~~[state department of]~~ public education  
4 department, the vocational rehabilitation ~~[division of the~~  
5 ~~state department of public education]~~ commission, the  
6 children, youth and families department, the New Mexico  
7 school for the blind and visually ~~[handicapped]~~ impaired and  
8 the New Mexico school for the deaf shall each submit a plan  
9 for support and services for persons with developmental and  
10 other disabilities within a reasonable time to allow for  
11 meaningful coordination, review and comment by the  
12 developmental disabilities planning council.

13 C. Each plan shall define and provide for the  
14 support and services that are required within the scope of  
15 each respective agency's applicable federal and state laws  
16 and regulations. The goal of each plan is to enable persons  
17 with developmental disabilities to maximize their potential,  
18 live as independently as possible in their own homes and  
19 communities and achieve productive lives through involvement  
20 in inclusive service settings."

21 SECTION 25. Section 28-16A-9 NMSA 1978 (being Laws  
22 1993, Chapter 50, Section 9) is amended to read:

23 "28-16A-9. INFORMATION AND REFERRAL SYSTEM--  
24 COORDINATION AND CONTINUATION.--In order to coordinate  
25 information and referral services and eliminate the

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1 duplication of effort, the developmental disabilities  
2 planning council shall provide information and referral  
3 services for persons with disabilities, their families,  
4 providers of support and services and local and state  
5 agencies, including:

6 A. the human services department;

7 B. the department of health;

8 C. the ~~[state department of public education and~~  
9 ~~its vocational rehabilitation division]~~ vocational  
10 rehabilitation commission and its office;

11 D. the New Mexico school for the deaf;

12 E. the New Mexico school for the blind and  
13 visually ~~[handicapped]~~ impaired;

14 F. the Carrie Tingley crippled children's  
15 hospital; and

16 G. the children, youth and families department."

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

19 "38-9-6. NOTICE--PROOF OF DISABILITY.--Every deaf  
20 person whose appearance at a proceeding entitles the person  
21 to an interpreter shall notify the appointing authority of  
22 the person's disability at least two weeks prior to any  
23 appearance and shall request the services of an interpreter.  
24 An appointing authority may require a person requesting the  
25 appointment of an interpreter to furnish reasonable proof of

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1 the person's disability when the appointing authority has  
2 reason to believe that the person is not so disabled.  
3 Reasonable proof shall include but not be limited to a  
4 statement from a doctor, an audiologist, the vocational  
5 rehabilitation [~~division of the public education department~~]  
6 office, the commission for deaf and hard-of-hearing persons  
7 or a school nurse that identifies the person as deaf or as  
8 having hearing so seriously impaired as to prohibit the  
9 person from understanding voice communications."

10 SECTION 27. TEMPORARY PROVISION--TRANSFER OF  
11 FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, RECORDS AND  
12 PROPERTY.--On the effective date of this act:

13 A. all functions, personnel, money,  
14 appropriations, records, furniture, equipment, supplies and  
15 other property of the vocational rehabilitation division of  
16 the public education department are transferred to the  
17 vocational rehabilitation commission;

18 B. all contractual obligations of the vocational  
19 rehabilitation division of the public education department  
20 are binding on the vocational rehabilitation commission and  
21 the vocational rehabilitation office; and

22 C. all references in law to the vocational  
23 rehabilitation division of the public education department  
24 shall be deemed to be references to the vocational  
25 rehabilitation commission and the vocational rehabilitation

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1 office.

2 SECTION 28. REPEAL.--Sections 22-14-2.1, 22-14-3.1,  
3 22-14-7, 22-14-8, 22-14-10 through 22-14-13 and 22-14-30 NMSA  
4 1978 (being Laws 2005, Chapter 328, Sections 2 and 4, Laws  
5 1967, Chapter 16, Sections 196 and 197, Laws 1971, Chapter  
6 324, Section 4, Laws 1967, Chapter 16, Section 199, Laws  
7 1983, Chapter 60, Section 1, Laws 1967, Chapter 16, Sections  
8 200 and 201 and Laws 1971, Chapter 324, Section 4, as  
9 amended) are repealed.

10 SECTION 29. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2021.